# Environment Act 2015

Act No. 333

Contents


| | | |
|---|---|---|
| 1 | Title | 3 |
| 2 | Commencement | 3 |
| | **Part 1** | |
| | **Preliminary matters** | |
| 3 | Interpretation | 3 |
| 4 | Meaning of contravenes an environmental standard | 6 |
| 5 | Act binds the Government | 7 |
| 6 | Matters to be taken into account | 7 |
| 7 | Act does not apply to certain existing activities | 7 |
| | **Part 2** | |
| | **Environmental protection** | |
| | *Development consents* | |
| 8 | Development consents required for certain activities affecting environment | 8 |
| 9 | Objections to granting of development consent | 9 |
| 10 | Consent holder must inform Department of change in circumstances | 9 |
| 11 | Suspension or cancellation of development consent | 10 |
| 12 | Certain activities exempt from development consent requirement | 10 |
| | *Environmental standards* | |
| 13 | Establishment of environmental standards | 11 |
| 14 | Activities affecting land use | 11 |
| 15 | Disposing of waste or other matter and removal and disposal of asbestos | 11 |
| 16 | Activities affecting freshwater supplies | 11 |
| 17 | Activities affecting marine areas | 12 |
| 18 | Activities affecting animals | 12 |
| 19 | Activities affecting plants | 12 |
| 20 | Activities affecting air quality or atmosphere | 12 |
| 21 | Noise control | 12 |
| | *Living modified organisms* | |
| 22 | Development, use, and testing of living modified organisms | 13 |
| | *Protected areas* | |
| 23 | Protected areas | 13 |
| 24 | Protected areas and environmental standards | 14 |
| | *Protected plant species* | |

25 Protected plant species 14
26 Protected plant species and environmental standards 14

*Relationship of Act with other legislation and legal requirements*

27 Relationship of Act with other legislation and legal requirements 15

**Part 3**

**Enforcement**

28 Failure to comply with Act is offence 15
29 General offences 16
30 Infringement offences 17
31 Civil remedies for environmental contraventions 18
32 Civil remedies in relation to prospective environmental contraventions 19
33 Matters to be taken into account 19
34 Additional penalties for environmental contraventions 20
35 Community service orders 21
36 Other rights of action and remedies 21

**Part 4**

**Administration**

*Environment Department*

37 Environment Department to continue 21
38 Functions of Department 21
39 Functions of Department relating to international conventions and other multilateral environment agreements (MEAs) 23
40 Staff of Department 24
41 Power of Director to delegate 24
42 Annual report 24
43 Protection from personal liability 24

*Environment officers*

44 Appointment of environment officers 24
45 Identification of environment officers 25
46 Power of environment officers to inspect 25
47 Consents and approvals authorise inspections 26
48 Power of environment officers to seize evidential items 26
49 Power of environment officers to seize and remove certain waste 27
50 Powers that are exercisable by warrant 27

**Part 5**

**Environmental levies and refunds**

51 Cabinet may prescribe levies 28
52 Refunds for certain used items 28

**Part 6**

**Miscellaneous**

53 Regulations 29
54 Liability of company 30
55 Company liability in case of bankruptcy 30
56 Repeal of Act and continuation of regulations 30
57 Consequential amendments to Water Act 2012 30
58 Consequential amendments to Domestic Fishing Act 1995 32

59 Consequential amendments to Territorial Sea and Exclusive Economic Zone Act 1996 35
60 Continuation of employment 37

**An Act to provide for the preservation and protection of the environment of Niue and, for that purpose,—**

**(a) authorise the making of environmental standards to regulate activities that affect the environment of Niue; and**

**(b) ensure that all government departments and public authorities consider environmental matters when making decisions that have or may have an effect on the environment of Niue.**

**The Assembly enacts as follows—**

**1 Title**

This Act is the Environment Act 2015.

**2 Commencement**

This Act comes into force on the day after the date on which it becomes law in accordance with Article 34 of the Constitution.

## Part 1
## Preliminary matters

**3 Interpretation**

In this Act, unless the context otherwise requires,—

**contravenes an environmental standard** has the meaning given in section 4

**Court** means the Niue High Court

**Department** means—

(a) the Environment Department established by section 5 of the Environment Act 2003 and continued in existence by section 37 of this Act; or

(b) any other department that is responsible for the administration of this Act

**development consent**, for an activity, means consent to carry out or continue the activity, as the case may be

**Director** means the Director of the Environment Department or the Director of the department that is responsible for the administration of this Act, as the case may be

**environment**—

(a) means all natural and physical elements; and

(b) includes—

(i) land, marine areas, freshwater supplies, and air; and

(ii) ecosystems and their constituent parts, including people and communities; and

(iii) the natural and physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes (commonly known as amenity values)

**environment officer** means a person holding office under section ~~38~~ 44

**environmental contravention** means a contravention of any of sections ~~12 to 20~~ 14-22

**environmental degradation** means the deterioration of the environment

**environmental impact assessment**, for an activity, means an independent assessment of the effects the activity will or may have on the environment

**environmental regulations** means regulations made under section ~~11(1), 21, 23, or 46~~ 13(1), 23, 25, 53

**environmental standard**—

(a) means a standard established by regulations made under section 11(1); and

(b) includes--

(i) a regulation made under section ~~21~~ 23 protecting an area of land; and

(ii) a regulation made under section ~~23~~ 25 protecting a species or subspecies of plant; and

(iii) any forest management plan made under an enactment

**freshwater supply**--

(a) means a land-based source of fresh water; and

(b) without limiting the generality of paragraph (a), includes—

(i) an underground body of fresh water; and

(ii) an aquifer; and

(iii) a bore or well connected to an underground body of fresh water or aquifer

**independent**, in relation to an environmental impact assessment, means an environmental impact assessment carried out in accordance with the environmental regulations

**infringement notice** means a notice alleging the commission of an infringement offence

**infringement offence** means an offence against this Act or regulations made under this Act that is classified as an infringement offence by or in accordance with section ~~26(6)~~ 28(6)

**land**—

(a) means Crown land and Niuean land; and

(b) includes—

(i) the foreshore (within the meaning of section 2 of the Territorial Sea and Exclusive Economic Zone Act 1996); and

(ii) the bed of the territorial sea of Niue; and

(iii) any natural structure attached to the bed of the territorial sea of Niue (for example, a reef or shoal) part of which from time to time, or occasionally, protrudes above the surface of the sea; and

(iv) a plant growing on land; and

(v) a building, a structure, or any other thing permanently fixed to land

**living modified organism**—

(a) means a living organism that possesses a novel combination of genetic material obtained through the use of modern biotechnology techniques (being techniques, not used in traditional breeding and selection, that overcome natural physiological reproductive barriers or recombination barriers); and

(b) includes agricultural crops (such as taro) that have been genetically modified for greater productivity or for resistance to pests or disease

**marine area** means—

(a) the territorial sea of Niue; and

(b) the exclusive economic zone of Niue

**Minister** means the Minister responsible for the Department

**organism**—

(a) means any organism capable of transferring or replicating genetic material; and

(b) includes—

(i) sterile organisms; and

(ii) viruses, viroids, plasmids, and bacteriophages; and

(iii) micro-organisms; and

(iv) subject to paragraph (c), a genetic structure that is capable of replicating itself (whether that structure comprises all or only part of an entity, and whether it comprises all or only part of the total genetic structure of the entity); and

(v) a reproductive cell or developmental stage of an organism; and

(vi) any particle that is a prion; but

(c) does not include a human or a genetic structure derived from a human

**outcome** includes effect

**prescribed** means prescribed in regulations made under this Act

**protected area** means an area of land prescribed as a protected area under section 21 23

**protected plant species** means a plant species prescribed as a protected species under section 23 25

**public authority** means a person or body executing a function in the public interest and for the public benefit pursuant to an enactment

**significant activity** means any activity that would require a development consent under section 7 8

**significant environmental impact** means an impact that significantly affects the environment, human health, or the health of animals or plants

**sustainable development**, means any significant activity that meets that meets the needs of the present generation without compromising the ability of future generations to meet their own needs and involves using resources to improve the quality of human life while living within the carrying capacity of supporting ecological systems

**tapu** means a place or land sacred to Niueans in the traditional, spiritual, religious, ritual, or mythological sense

**waste**—

(a) means any thing disposed of or discarded; and

(b) includes—

(i) wastewater; and

(ii) a type of waste that is defined by its composition or source (for example, human waste, animal waste, organic waste, electronic waste, hazardous waste, or construction and demolition waste).

4 **Meaning of contravenes an environmental standard**

(1) For the purposes of this Act, a person **contravenes an environmental standard** if (in the course of preparing to carry on, carrying on, or dealing with the consequences of carrying on an activity protected by the standard) the person—

(a) does a thing prohibited by the standard; or

(b) does a thing whose outcome (direct or indirect) is or includes an outcome prohibited by the standard; or

(c) fails or refuses to take all reasonably practicable steps to ensure that an outcome prohibited by the standard does not occur; or

(d) fails or refuses to do a thing required by the standard; or

(e) fails or refuses to do a thing where that failure or refusal has an outcome (direct or indirect) that is or includes an outcome prohibited by the standard; or

(f) fails or refuses to take all reasonably practicable steps to ensure that an outcome required by the standard occurs.

(2) In this section, **an activity protected by the standard** means an activity of a kind described in the environmental standard as the subject matter of the standard.

5 **Act binds the Government**

This Act binds the Government.

6 **Matters to be taken into account**

All persons exercising functions and powers under this Act must, to the extent applicable, take into account the following matters:

(a) the maintenance and enhancement of the quality of the environment:

(b) the efficient use and development of natural and physical resources:

(c) the concept of sustainable development:

(d) the protection of the water lens from contamination:

(e) the protection of indigenous flora and indigenous fauna and their habitats:

(f) the protection of the coastal zone from inappropriate use and development:

(g) the protection of historic areas from inappropriate use and development:

(h) the relationship of Niueans and their culture and traditions to their lands and historic areas:

(i) the conservation and sustainable use of biological resources:

(j) compliance with multilateral environment agreements to which Niue is a party.

7 **Act does not apply to certain existing activities**

This Act does not apply to any activity that--

(a) was completed before the commencement of this Act; or

(b) has been authorised under the Environment Act 2003; or

(c) was lawfully begun before the commencement of this Act and--

(i) has, or is likely to have, effects that are the same as or similar in character, intensity, and scale to those of other activities lawfully carried on before the commencement of this Act; and

(ii) has not, since it was begun, been discontinued for any continuous period of 6 months (being a period all or part of which was after the commencement of this Act).

# Part 2
# Environmental protection

*Development consents*

**8 Development consents required for certain activities affecting environment**

(1) This section applies to an activity if--

(a) 1 or more of the following apply:

(i) the activity will or may have a significant environmental impact:

(ii) in an environmental standard, the activity is stated as one that must not be started or continued without development consent:

(iii) in an environmental standard, the activity is stated as being one that will or may have a significant environmental impact:

(iv) the activity will or may contravene an environmental standard; and

(b) the activity is not—

(i) an existing activity to which section 6 applies; or

(ii) an activity to which section 10(1) 12(1) applies.

(2) A person must not start an activity to which this section applies without first having been granted development consent to carry on the activity.

(3) A person must not continue any activity to which this section applies without first having been granted development consent for continuing the activity.

(4) Development consent for an activity to which this section applies—

(a) must be applied for in accordance with the environmental regulations; and

(b) may be granted—

(i) with or without conditions (including a condition that a condition be amended, or 1 or more further conditions imposed, during the life of the consent); and

(ii) by the Department or the Minister, as the regulations require.

(5) An independent environmental impact assessment of the activity must be carried out as part of the process of obtaining development consent.

(6) An environmental impact assessment—

(a) must be carried out in accordance with the environmental regulations; and

(b) may be—

(i) a single process, comprising an initial assessment; or

(ii) a two-step process, comprising both initial and full assessments.

(7) Development consent for an activity to which this section applies must not be granted unless an environmental impact assessment of the activity has first been carried out.

**9 Objections to granting of development consent**

(1) On receipt of an application for a development consent, the Director must give 2 weeks public notice that—

(a) provides a brief description of the application; and

(b) requests all interested persons to inform the Director whether they support the application or object to it and, if they do object, the reasons for that objection; and

(c) states the last day on which such information will be received and the name or official designation and address of the person to whom it should be sent.

(2) The Director may—

(a) require an objector or an applicant to provide additional information; and

(b) delay consideration of the objection or response until the information is provided or, if the information is not provided within the time specified, refuse to consider the objection or response.

(3) Before making a determination on an application in respect of which an objection has been made, the Director must endeavour to resolve the issues raised by the objection by means of consultation with the applicant and the objector, with a view to reaching agreement on the matters raised by the objection.

**10 Consent holder must inform Department of change in circumstances**

(1) This section applies if the holder of development consent for an activity is required to notify, communicate, or report information to the Director or the Department as a condition of the development consent.

(2) The consent holder must, as soon as practicable, notify the Department of any change in circumstances that has the effect of rendering any information previously notified, communicated, or reported false, incomplete, or misleading.

**11 Suspension or cancellation of development consent**

(1) The Director may suspend a development consent granted for an activity, by written notice to the consent holder, if he or she considers on reasonable grounds that the holder is contravening or is likely to contravene any condition of the consent.

(2) A consent holder given notice under subsection (1) must cease carrying out the activity until the holder has proved, to the satisfaction of the Director, that the activity will be carried out in compliance with the conditions of the consent.

(3) If the holder does not so satisfy the Director within 15 working days of receiving notice under subsection (1), or such later time as the Director permits, the Director may, by written notice to the holder, cancel the consent (regardless of whether the consent was granted by the Director or the Minister).

**12 Certain activities exempt from development consent requirement**

(1) Section 7 8 does not apply to an activity to which it would otherwise apply if--

(a) the activity is expressly authorised by an enactment other than this Act; or

(b) the activity is of a kind expressly authorised by this Act, the environmental regulations, or an enactment other than this Act.

(2) However, if Cabinet, or a government department, or an officer of a government department is empowered under any enactment to grant a consent, licence, or other permission to any person that authorises that person to carry out an activity that will or may have a significant environmental impact, then, as the case may be, before granting the permission,—

(a) Cabinet must be satisfied that—

(i) a contravention of any relevant environmental standard will not result from the granting of the permission; or

(ii) the person to whom the permission is granted will comply with the environmental standard when carrying out the activity; and

(b) the government department or officer must obtain the consent of the Director, whether or not the enactment expressly requires the Director's consent.

(3) The Director may give consent for the purposes of subsection (2)(b) only if he or she is satisfied that—

(a) a contravention of any relevant environmental standard will not result from the granting of the permission; or

(b) the person to whom the permission is granted will comply with the environmental standard.

*Environmental standards*

**13 Establishment of environmental standards**

(1) Cabinet may make regulations establishing a standard for the carrying on of one or more activities of a kind described in the regulations as the subject matter of the standard.

(2) A standard may state elements of the environment for whose protection it is established.

(3) A standard may specify—

(a) activities that must not be started or continued without development consent (for the purposes of section 7 8(1)(a)(ii)); and

(b) activities that may be carried out without development consent (for the purposes of section 10 12(1)).

(4) A standard must not be inconsistent with any other standard (including a protected plant species notice or a protected area notice).

**14 Activities affecting land use**

A person must not carry out either of the following activities unless the activity is expressly authorised by this Act or the environmental regulations or has development consent:

(a) using land in a manner that contravenes an environmental standard; or

(b) doing anything in a manner that contravenes an environmental standard established for the protection of land.

**15 Disposing of waste or other matter and removal and disposal of asbestos**

(1) A person must not dispose of waste or other matter, including litter, in a manner that contravenes an environmental standard unless the disposal is expressly authorised by this Act or the environmental regulations or has development consent.

(2) A person must not remove or dispose of asbestos in a manner that contravenes an environmental standard unless the removal or disposal is expressly authorised by this Act or the environmental regulations.

**16 Activities affecting freshwater supplies**

A person must not carry out either of the following activities unless the activity is expressly authorised by this Act or the environmental regulations or has development consent:

(a) doing anything to, in, with, or in relation to a freshwater supply in a manner that contravenes an environmental standard; or

(b) doing anything in a manner that contravenes an environmental standard established for the protection of freshwater supplies.

**17 Activities affecting marine areas**

A person must not carry out either of the following activities unless the activity is expressly authorised by this Act or the environmental regulations or has development consent:

(a) doing anything to, in, with, or in relation to a marine area in a manner that contravenes an environmental standard; or

(b) doing anything in a manner that contravenes an environmental standard established for the protection of marine areas.

**18 Activities affecting animals**

A person must not carry out either of the following activities unless the activity is expressly authorised by this Act or the environmental regulations or has development consent:

(a) doing anything to, in, with, or in relation to animals in a manner that contravenes an environmental standard; or

(b) doing anything in a manner that contravenes an environmental standard established for the protection of animals.

**19 Activities affecting plants**

A person must not carry out either of the following activities unless the activity is expressly authorised by this Act or the environmental regulations or has development consent:

(a) doing anything to, in, with, or in relation to plants in a manner that contravenes an environmental standard; or

(b) doing anything in a manner that contravenes an environmental standard established for the protection of plants.

**20 Activities affecting air quality or atmosphere**

A person must not carry out either of the following activities unless the activity is expressly authorised by this Act or the environmental regulations or has development consent:

(a) doing anything to, in, with, or in relation to the air or atmosphere in a manner that contravenes an environmental standard; or

(b) doing anything in a manner that contravenes an environmental standard established for the protection of the air or atmosphere.

**21 Noise control**

A person must not carry out an activity in a manner that contravenes an environmental standard established in relation to noise control unless the activity is expressly authorised by this Act or the environmental regulations or has development consent.

*Living modified organisms*

**22 Development, use, and testing of living modified organisms**

(1) A person must not carry out any activity relating to the development, field testing, contained use, fermentation, or processing of a living modified organism unless the person has the written consent of the Director and the department responsible for the administration of the Agriculture Quarantine Act 1984 (the **responsible department**), whether granted with or without conditions.

(2) A person who causes or becomes aware of the unintentional release of a living modified organism must immediately notify the Director and the responsible department, and the Director, in conjunction with the responsible department, must—

(a) take all action necessary in the circumstances to respond to the release (taking into account the precautionary principle that where there is a threat of serious or irreversible damage, lack of full scientific certainty is not to be used as a reason for postponing cost-effective measures to prevent environmental degradation); and

(b) inform the Minister as soon as practicable.

*Protected areas*

**23 Protected areas**

(1) For the purposes set out in subsection (2), Cabinet may prescribe,—

(a) on its own volition, an area of land to be a protected area:

(b) on the request of a Village Council, an area of land within the Council's village to be a protected area, but only if the majority of magafaoa_ holding land in that part of the village have given their written consent to the request:

(c) any place or land to be tapu.

(2) Cabinet may prescribe an area to be a protected area for any one or more of the following purposes:

(a) science protection:

(b) wilderness protection:

(c) ecosystem protection and recreation:

(d) conservation of specific natural features:

(e) conservation through management intervention:

(f) landscape or seascape conservation or recreation:

(g) sustainable use of natural resources.

(3) An area of land prescribed to be a protected area under this section is protected to the extent set out in the regulations.

(4) Without limiting subsection (2), the protection may be—

(a) absolute, in which case no person may enter and no activities of any kind may be carried out in the protected area; or

(b) partial, in which case persons may enter and activities may be carried out in the manner specified in the notice.

(5) To avoid doubt, partial protection of a protected area may relate to any matter, including the following:

(a) access to the area; and

(b) activities that may or may not be carried out in the area, including activities relating to killing or taking any thing from the area; and

(c) when activities may be carried out in the area (whether by reference to season, month, time of day, or otherwise).

**24 Protected areas and environmental standards**

Regulations made under section 21 23 that protect an area of land or a tapu, or any thing within that land or tapu, must be treated for all purposes as if they were an environmental standard made under this Act for the carrying on of any activity within the protected area.

*Protected plant species*

**25 Protected plant species**

(1) For the purposes of safeguarding Niue's environment, Cabinet may prescribe,—

(a) of its own volition, a species or subspecies of plant as a protected species:

(b) on the request of a Village Council, a species or subspecies of plant to be a protected species within the Council's village or part of the village, but only if the majority of magafaoa holding land in the village or part of the village have given their written consent to the request.

(2) Regulations made for the purposes of subsection (1) may prescribe a species or subspecies of plant as—

(a) absolutely protected; or

(b) protected in the circumstances specified in the regulations.

**26 Protected plant species and environmental standards**

Regulations made under section 23 25 protecting a species or subspecies of plant must be treated for all purposes as if they were an environmental standard made under this Act for the carrying on of any activity.

*Relationship of Act with other legislation and legal requirements*

**27 Relationship of Act with other legislation and legal requirements**

(1) To the extent that this Act is inconsistent with any other enactment, it overrides the other enactment.

(2) To the extent that the environmental regulations are inconsistent with any other subordinate legislation, they override the other subordinate legislation.

(3) In any enactment in relation to which the Director is required to give his or her consent or permission before an activity may be carried out, the Director may do so only if, in addition to any precondition specified in the enactment, he or she is also satisfied that—

(a) any relevant environmental standard will not be contravened by the giving of his or her consent or the granting of his or her permission; or

(b) the person to whom the consent or permission is given or granted will comply with the environmental standard.

(4) To avoid doubt, complying with this Act in relation to an activity does not limit or affect the need to comply with any obligation imposed by any other enactment in relation to that activity (for example, a building consent, water extraction licence, or timber cutting licence).

## Part 3
## Enforcement

**28 Failure to comply with Act is offence**

(1) A person who carries out an activity to which section 7 8(1) applies without development consent, in contravention of the conditions of consent, or while consent is suspended, commits an offence and is liable on conviction to,—

(a) in the case of an individual,—

(i) a fine not exceeding 500 penalty units or a term of imprisonment not exceeding 2 years, or both; and

(ii) in the case of a continuing offence, a further fine not exceeding 100 penalty units for each day or part of a day during which the offence continues; or

(b) in the case of a body corporate,—

(i) a fine not exceeding 15 000 penalty units; and

(ii) in the case of a continuing offence, a further fine not exceeding 100 penalty units for each day or part of a day during which the offence continues.

(2) A person who provides information for the purposes of section 8(1) knowing that the information is false or misleading in any material particular, or who fails to comply with section 8 10(2), commits an offence and is liable on conviction to,—

(a) in the case of an individual, a fine not exceeding 500 penalty units or a term of imprisonment not exceeding 2 years, or both; or

(b) in the case of a body corporate, a fine not exceeding 1 000 penalty units.

(3) A person who contravenes an environmental standard or contravenes section 20 22(1) commits an offence and is liable on conviction to,—

(a) in the case of an individual,—

(i) a fine not exceeding 5 000 penalty units or a term of imprisonment not exceeding 2 years, or both; and

(ii) in the case of a continuing offence, a further fine not exceeding 500 penalty units for each day or part of a day during which the offence continues; or

(b) in the case of a body corporate,—

(i) a fine not exceeding 10 000 penalty units; and

(ii) in the case of a continuing offence, a further fine not exceeding 1 000 penalty units for each day or part of a day during which the offence continues.

(4) A person who fails or refuses to comply with section 20 22(2) or any request or requirement of an environment officer made under any of sections 40 to 43 46 to 49 commits an offence and is liable on conviction to a fine not exceeding 100 penalty units.

(5) In addition to any penalty imposed under subsections (1) to (3), the Court may order the person to pay the costs of any remedial actions taken by the Department or any other government department or public authority to rectify any consequences of the contravention or non-compliance concerned.

(6) The following offences are infringement offences:

(a) an offence against subsection (3) for the contravention of an environmental standard in relation to noise:

(b) any other offence against this Act that is declared by regulations made under section 46 to be an infringement offence.

**29 General offences**

(1) A person commits an offence who—

(a) does not submit any report or provide information as required under this Act or the environmental regulations; or

(b) offers or gives any inducement to any person exercising functions and powers under this Act or the environmental regulations

which might reasonably be considered to have the purpose of influencing a decision of that person under this Act of the environmental regulations; or

(c) fails to comply with any requirement or condition of any approval or consent granted under this Act or the environmental regulations; or

(d) does not comply with the terms of any order of the Court made under this Act and served on that person.

(2) A person who commits an offence against any of paragraphs (a) to (d) of subsection (1) is liable on conviction to—

(a) fine not exceeding 100 penalty unit; or

(b) a term of imprisonment not exceeding 12 months; or

(c) both penalties described in paragraphs (a) and (b).

**30 Infringement offences**

(1) If a person is alleged to have committed an infringement offence, the person may—

(a) be proceeded against in the normal manner by the laying of an information against the person; or

(b) be served with an infringement notice by a constable delivering it or a copy of it personally to the person's last known place of residence or business.

(2) An infringement notice must be in the prescribed form and must state—

(a) details of the alleged infringement offence that are sufficient to fairly inform the person of the time, place, and nature of the alleged offence; and

(b) the amount of the infringement fee; and

(c) an address at which the infringement fee may be paid; and

(d) the time within which the infringement fee must be paid; and

(e) that the person has a right to request a hearing; and

(f) what will happen if the person does not pay the fee and does not request a hearing; and

(g) any other prescribed information.

(3) If the person pays the infringement fee within the period stated in the infringement notice,—

(a) no further action may be taken against the person; and

(b) no conviction may be entered against the person for the offence.

(4) If the person does not pay the infringement fee or request a hearing within the period stated in the infringement notice, the Department must serve the person with a reminder notice in the prescribed form that contains the same or substantially the same particulars as the infringement notice.

(5) If the person does not pay the infringement fee or request a hearing within the period stated in the reminder notice, proceedings may be commenced against the person by filing the reminder notice with the Court and, for that purpose,—

(a) the reminder notice must be treated as the information for the infringement offence; and

(b) the Court is deemed to have made an order, on the date that the reminder notice is filed, that the defendant pay a fine equal to the amount of the infringement fee together with costs in the prescribed amount, but no conviction is entered against the person.

(6) A person requests a hearing by providing to the Department, within the period specified in the infringement notice or reminder notice, as the case may be, a notice, signed by the person, requesting a hearing and accepting or rejecting liability and, if accepting liability, the reasons, if any, why the Court should impose a lesser fine than the infringement fee for the offence.

(7) A person found guilty at a hearing held for the purposes of subsection (6) is liable to a fine equal to the amount of the infringement fee (unless the Court imposes a lesser amount) together with costs in the prescribed amount, but no conviction is entered against the person.

(8) To avoid doubt, if a person commits an infringement offence and proceedings against the person are taken in the normal manner under subsection (1)(a), the person is liable to pay not the infringement fee but the amount that the Court determines in accordance with section 26. However, no conviction may be entered against the person.

**31 Civil remedies for environmental contraventions**

(1) Any person (the **applicant**) may institute proceedings in the Court that seek all or any of the relief set out in subsection (2) against any other person (the **defendant**) if the defendant has allegedly committed an environmental contravention.

(2) The Court may grant all or any of the following in relation to proceedings instituted under subsection (1):

(a) an injunction:

(b) damages for loss resulting from the contravention concerned (the **contravention**):

(c) a declaration that the defendant has committed the contravention:

(d) an order that the defendant make a public apology for the contravention:

(e) an order that any stated consequences of the contravention be reversed:

(f) an order for an account for profits arising from the contravention:

(g) an order for the seizure of any item in respect of which the contravention occurred that is owned by, in the possession of, or under the control of the defendant:

(h) any other orders that the Court thinks appropriate in the circumstances.

**32 Civil remedies in relation to prospective environmental contraventions**

(1) Any person (the **applicant**) may institute proceedings in the Court that seek all or any of the relief set out in subsection (2) against any other person (the **defendant**) if there is reason to believe that the defendant intends to commit an environmental contravention.

(2) The Court may grant all or any of the following in relation to proceedings instituted under subsection (1):

(a) an injunction:

(b) damages for loss resulting from the intended contravention concerned (the **prospective contravention**):

(c) a declaration that the prospective contravention would be an environmental contravention:

(d) an order for the seizure of any object in respect of which the prospective contravention is intended to occur that is owned by, in the possession of, or under the control of the defendant:

(e) any other orders that the Court thinks appropriate in the circumstances.

**33 Matters to be taken into account**

In deciding what relief is to be granted under section 28 31(2) or 29 32(2), the Court may take into account (to the extent that they are applicable) all or any of the following:

(a) whether the defendant was aware or ought reasonably to have been aware that an action, or a failure or refusal to act, was or would be an environmental contravention:

(b) the effect of the environmental contravention or prospective environmental contravention on the applicant:

(c) anything done by the defendant to mitigate the effects of the contravention or prospective contravention:

(d) any cost or difficulty that may have been associated with ascertaining the facts of the particular case:

(e) any cost or difficulty in ceasing or reversing any consequences of the contravention or prospective contravention:

(f) whether the parties have undertaken any other action to resolve the situation.

**34 Additional penalties for environmental contraventions**

(1) The Court may, in addition to any other punishment that may be imposed under this Act and having regard to the nature of the offence and the circumstances surrounding its commission, make an order—

(a) for indemnification of the Government, occupiers, or any person whose interest is affected by the damage caused to the environment or to human health:

(b) for replacement and restitution to their natural state of things affected:

(c) for rehabilitation of the environment affected at the cost of the party responsible for the offence:

(d) directing the offender to compensate any affected party, in whole or in part, for any environmental damage or the cost of any remedial or preventive action taken or caused to be taken as a result of the act or omission that constituted the offence:

(e) prohibiting the offender from doing any act or engaging in any activity that may result in the continuation or repetition of the offence:

(f) directing the offender to take such action as the Court considers appropriate to remedy or avoid any harm to the environment that results or may result from the act or commission that constituted the offence:

(g) directing the offender to post such bond or pay such amount of money to the Department or into Court as will ensure compliance with any order made under this section:

(h) directing the seizure and forfeiture of any vessel, aircraft, or vehicle used in the commission of any offence:

(i) requiring the offender to comply with such other reasonable conditions as the Court considers appropriate and just in the circumstances.

(2) Where an offender has been convicted of an offence under this Act, the Court may, at the time the sentence is imposed and on the application of the person aggrieved, order the offender to pay to that person an amount by way of satisfaction or compensation for loss of or damage to property or income suffered by that person as a result of the commission of the offence.

(3) Where an amount that is ordered to be paid under subsections (1) or (2) is not paid within the specified time, a civil judgment may be filed with the Court and that judgment is enforceable against

the offender in the same manner as if it were a judgment rendered against the offender in the Court in civil proceedings.

(4) The Court may in addition to any other punishment that may be imposed under this Act impose a fine for each day the offence continues until compliance is fulfilled.

**35 Community service orders**

(1) Upon the conviction of any person, the prosecution may make submissions to the Court on the appropriateness of a community service order and of the availability of any community service work.

(2) The Court may sentence a person to a community service order instead of or in addition to a fine.

(3) The Court may order a person sentenced to a community service order to work under appropriate supervision a specified number of hours for a charitable or community cause or organisation, and where possible, the work should relate to environmental matters.

(4) The Court may specify whether the Director, a constable or some other person is to supervise the community service order work.

**36 Other rights of action and remedies**

This Part does not affect any rights of action or other remedies, whether civil or criminal, provided for under any other enactment or rule of law.

## Part 4
## Administration

*Environment Department*

**37 Environment Department to continue**

The Environment Department established by section 5 of the Environment Act 2003 continues in existence.

**38 Functions of Department**

(1) The Department's functions are--

(a) to administer and implement this Act and the environmental regulations:

(b) to administer or implement any other enactment or part of any other enactment for which the Department is responsible, including the Wildlife Act 1972 and the Water Act 2012:

(c) to help the Government of Niue to formulate--

(i) environmental and resource management objectives; and

(ii) environmental policies and legislation:

(d) to design and implement, in collaboration with other departments if relevant, programmes for--

(i) environmental planning and natural resource management; and

(ii) environmental impact assessments; and

(iii) waste management; and

(iv) pollution control; and

(v) nature conservation; and

(vi) protection of cultural and historic areas; and

(vii) dealing with climate change and natural disasters, including programmes relating to disaster risk management; and

(viii) control and use of living modified organisms:

(e) to promote environmental awareness, undertake public information campaigns, and promote and provide environmental education:

(f) to review environmental legislation (including this Act) and, where necessary, propose amendments and regulations:

(g) to monitor and enforce environmental laws and policies:

(h) to oversee the formulation of collaborative policies and programmes on environmental matters with public authorities and with non-governmental organisations, and advise on, promote, and assist in implementing those policies and programmes:

(i) to promote the study of the environment through research, surveys, classifications, and compilation of databases:

(j) to undertake environmental studies and issue reports:

(k) to oversee, monitor, and approve research carried out in Niue relating to the environment:

(l) to promote community involvement in making decisions in relation to the environment:

(m) to encourage and foster knowledge, innovation, and practices embodied in traditional lifestyles that promote the protection, conservation, improvement, and management of the environment:

(n) to perform all other functions conferred by or under this Act.

(2) For the purposes of performing the functions described in subsection (1), the Department has all the necessary powers.

(3) To avoid doubt, when performing the functions described in subsection (1), the Department must—

(a) implement the general policy of the Government in relation to the protection and preservation of Niue's environment; and

(b) comply with any policy directive given to it by Cabinet that is not inconsistent with this Act or any other enactment.

**39 Functions of Department relating to international conventions and other multilateral environment agreements (MEAs)**

(1) The Department also has the following functions:

(a) to consult and liaise with other government departments and public authorities to identify--

(i) international conventions relating to the environment and multilateral environment agreements (**MEAs**) that it may be in Niue's interests to be a party to; and

(ii) the obligations that Niue would assume under those conventions or MEAs; and

(b) in relation to international conventions relating to the environment or MEAs to which Niue is a party,--

(i) to ensure Niue's effective representation at meetings of the parties and other relevant meetings:

(ii) to liaise with relevant regional and international bodies to ensure that Niue meets its obligations under the conventions and MEAs:

(iii) to manage or participate in projects aimed at implementing aspects of the conventions and MEAs:

(iv) to disseminate information about the subject matter of the conventions and MEAs and create public awareness about them:

(v) to prepare all necessary reports and report regularly to the Minister and Cabinet in relation to the implementation of the conventions and MEAs:

(vi) to share information and otherwise provide the co-operation required by the conventions and MEAs:

(vii) to recommend that laws be amended or enacted to implement effectively the requirements of the conventions and MEAs:

(viii) to work with relevant departments and public authorities to implement obligations under the conventions and MEAs.

(2) For the purposes of performing the functions described in subsection (1), the Department has all the necessary powers.

(3) Subsection (1) does not limit the role, powers, or functions of any other department or public authority in relation to any international convention relating to the environment or MEA.

**40 Staff of Department**

(1) The Department comprises the Director, and all other officers necessary for the administration of this Act, as appointed by the Niue Public Service Commission.

(2) The functions of the Director are to—

(a) manage the administration of this Act; and

(b) oversee the efficient, effective, and economical management of the Department; and

(c) set and update priorities for the work of the Department; and

(d) give advice to persons to whom he or she is accountable on matters concerning the environment and the functions of the Department; and

(e) carry out all other actions that are necessary to discharge those functions properly and effectively.

**41 Power of Director to delegate**

(1) The Director may delegate any of his or her powers (including the power to perform any of his or her functions) to any –

(a) officer of the Department or any member of staff of any other department; or

(b) public authority.

(2) The Director must not delegate this power to delegate.

**42 Annual report**

(1) The Director must give to the Minister a report each financial year on the operations of the Department in the preceding year.

(2) The Minister must table a copy of the report before the Assembly at the first available meeting.

**43 Protection from personal liability**

The Director, environment officers, and staff of the Department are not personally liable for anything done or omitted to be done in performing their functions in good faith under this Act or the environmental regulations.

*Environment officers*

**44 Appointment of environment officers**

(1) The Niue Public Service Commission may, by notice in writing, appoint 1 or more environment officers.

(2) In addition, the Commission may, by notice in writing to the individual, appoint any of the following individuals to be environment officers to perform the functions of an environment officer specified in the notice for the purpose specified in the notice:

(a) constables:

(b) biosecurity officers:

(c) customs officers:

(d) fisheries officers:

(e) public health inspectors:

(f) any other officer employed in the public service:

(g) any other person who the Commission considers on reasonable grounds is an appropriate person to perform the functions in relation to which the Commission intends to make the appointment.

**45 Identification of environment officers**

(1) The Director must issue each environment officer appointed under section 38 44(1) or 38 44(2)(g) with an identification card.

(2) If it is practicable in the circumstances, an environment officer must produce his or her identification card—

(a) on each occasion before the officer exercises a power under this Act; and

(b) when requested to do so by any person who is affected by the actions of the officer while the officer exercises a power under this Act.

(3) It is sufficient for the purposes of complying with subsection (2) if an environment officer appointed under any of paragraphs (a) to (f) of section 38 44(2) produces any identification card that he or she holds in respect of his or her primary position as described in that paragraph so long as—

(a) the identification card is endorsed with a reference to the officer's appointment under this Act; or

(b) the officer can demonstrate in some other way that he or she is lawfully acting as an environment officer.

**46 Power of environment officers to inspect**

(1) An environment officer may inspect any place (other than a private home) if he or she believes on reasonable grounds that—

(a) anything has been done, is being done, or is intended to be done in that place in contravention of this Act; or

(b) there is in that place any thing whose presence there is a contravention of this Act, whether absolutely or by virtue of the lack of some necessary approval or consent (however described).

(2) If an application for an approval or consent is made but not determined under this Act or the environment regulations, an environment officer may inspect the place in which the environment officer reasonably considers the proposed activity will take place.

(3) An environment officer may inspect any thing if he or she believes on reasonable grounds that the thing contravenes this Act, or any action has been, is being, or is about to be done to the thing in contravention of this Act.

(4) The owner or occupier of any place at which an environment officer exercises or attempts to exercise a power of inspection under this or any other Act—

(a) must give the officer--

(i) all reasonable assistance to enable the officer to exercise the power; and

(ii) all information in relation to the exercise of the power that the officer reasonably requires; but

(b) is not required to give a response or information (whether in reply to a question or otherwise) that may incriminate himself or herself.

(5) Before requiring a person to answer questions or give a response or information, an environment officer must inform a person of his or her rights under subsection (4)(b).

**47 Consents and approvals authorise inspections**

(1) Every consent or approval issued under this Act or the environmental regulations authorises any environment officer to inspect any place to which the consent or approval relates (other than a private home) if the officer believes on reasonable grounds that something is being done in that place in contravention of this Act.

(2) The power to inspect conferred by subsection (1) is in addition to those conferred under section 40 46, and does not limit or affect them.

**48 Power of environment officers to seize evidential items**

(1) An environment officer may, without a Court order or a search warrant, seize any thing (a **seized item**) if—

(a) the seized item—

(i) is produced to the officer; or

(ii) is in plain view during an inspection authorised by this Act or any other Act; and

(b) the officer has reasonable grounds to believe that—

(i) an offence against this Act or the environmental regulations has been committed; and

(ii) the seized item is evidence of the commission of the offence.

(2) The environment officer must—

(a) take reasonable steps to--

(i) tell the owner (or person in apparent possession) of the seized item the reason for its seizure; and

(ii) give the owner or person a receipt for the seized item; and

(b) remove the seized item to a place for safe keeping; and

(c) otherwise deal with the seized item in the same manner as if it were being seized under the authority of a search warrant under section 284 of the Niue Act 1966.

**49 Power of environment officers to seize and remove certain waste**

(1) An environment officer may, without a Court order or a search warrant, seize and remove from any land any item specified in subsection (2) if the Director believes on reasonable grounds that the item—

(a) has been abandoned; and

(b) is no longer capable of being used for its original purpose.

(2) The items referred to in subsection (1) are any vehicle, vessel, trailer, satellite dish, solar panel, gas cylinder, whiteware, or e-ware.

(3) The Director may dispose of any item removed under this section in the manner that he or she thinks fit, and no compensation is payable to any person for the disposal of it.

(4) In this section,—

**e-ware** means any computer, computer screen, printer, television, or computer equipment

**whiteware** means a cooker, refrigerator, washing machine, or microwave oven.

**50 Powers that are exercisable by warrant**

(1) An environment officer may not enter a private home for the purposes of sections 40 to 43 46 to 49 except—

(a) with the consent of the owner or occupier; or

(b) under the authority of a warrant made by an order issued under this section on an application by the officer.

(2) In any other case, an environment officer may apply for a warrant under this section if the officer reasonably believes that the officer may not be able to exercise any powers under sections 40 to 43 46 to 49 without a warrant, for example because—

(a) no person is present to grant access to a place that is locked or otherwise inaccessible; or

(b) a person has denied the officer access to a place or there is reasonable ground for believing that a person may deny the officer access to a place; or

(c) a person has prevented the officer from exercising any of those powers; or

(d) there are reasonable grounds to believe that an attempt by the officer to exercise any of those powers without the warrant might defeat the purpose of the powers concerned or cause an adverse effect.

(3) A judicial officer may make an order issuing a warrant under this section if satisfied on evidence in writing given under oath by the environment officer that the warrant is necessary for the purpose in subsection (1) or (2), as the case may.

(4) A warrant under this section may authorise an environment officer to exercise such powers under sections 40 to 43 46 to 49 that are specified in the warrant, and the warrant expires at the close of 14 days after the date on which it is issued unless extended by a judicial officer for a further period not exceeding 14 days.

(5) In this section, **judicial officer** means a Judge of the High Court or, if a Judge is not present in Niue, a Commissioner of the High Court or any 2 Justices of the Peace.

## Part 5
## Environmental levies and refunds

**51 Cabinet may prescribe levies**

(1) Cabinet may prescribe levies based on the polluter pays principle in respect of any specified items imported into Niue or any operation that produces any product—

(a) that will or may have a significant environmental impact when they become waste; or

(b) in relation to which there are significant benefits to Niue from reduction, reuse, recycling, or recovery of the items.

(2) The items or operations to which the levy applies must be prescribed.

(3) The levy must be paid to the Customs Office but is in addition to any other levy required under the Customs Act 1966 or any other enactment.

(4) The Niue Treasury must keep separate accounts of any levy payable under this section so the amounts collected and any items to which they relate can be readily identified.

(5) A levy collected under this section must be paid into the Niue Government Account controlled by the Niue Treasury.

**52 Refunds for certain used items**

(1) For the purposes of maintaining or enhancing Niue's environment, Cabinet may prescribe—

(a) used items for which a refund may be given; and

(b) the amount of the refund; and

(c) requirements that must be met before an item qualifies for a refund (for example, that the item first be cleaned and taken to a particular place).

(2) Regulations made for the purposes of this section may leave any matter or thing to be regulated or controlled by the Director.

## Part 6
## Miscellaneous

**53 Regulations**

(1) Cabinet may make regulations for the purposes of this Act.

(2) In particular, regulations may be made for all or any of the following purposes:

(a) prescribing the process by which development consent is granted for an activity:

(b) prescribing the requirements of an environmental impact assessment for an activity, including—

(i) the information to be provided in an assessment; and

(ii) the circumstances in which both an initial and a full impact assessment are required; and

(iii) the persons who may conduct an assessment:

(c) prescribing forms to be used for the purposes of this Act:

(d) prescribing matters for which fees are payable under this Act and the amount of those fees, and providing for the Department to recover from applicants for development consents its reasonable costs for carrying out environmental impact assessments of any kind in relation to their applications:

(e) declaring which offences against this Act or regulations made under this Act constitute infringement offences:

(f) prescribing infringement fees not exceeding 5 penalty units for infringement offences (which may be different fees for different offences, including different fees for a first, second, or subsequent offence):

(g) prescribing matters relating to the identification, management, and control of living modified organisms:

(h) providing for any other matters contemplated by this Act that are necessary for its full administration or necessary for giving it full effect.

(3) Regulations made under this section may create offences for contravention of the regulations and may prescribe penalties for an offence committed against them of fines not exceeding 500 penalty units.

(4) Subsection (3) is subject to subsection (2)(f).

**54 Liability of company**

(1) If a company fails to comply with a provision of this Act, each person who is a director of the company or who is concerned in managing the company, is taken to have failed to comply with that provision, unless the person satisfies the Court that the person—

(a) has no actual, imputed or constructive knowledge of the failure by the company to comply with the provision; or

(b) was not in a position to influence the conduct of the company concerning its failure to comply with the provision, or, if in that position, had used all due diligence to prevent failure to comply by the company.

(2) If a company fails to comply with a provision of this Act, each person who is a director of the company or who is concerned in managing it may be proceeded against and convicted whether or not the company has been proceeded against and whether or not the company has been convicted.

(3) The company remains liable for any offence committed by it whether or not proceedings are commenced against the directors or those concerned with managing the company.

**55 Company liability in case of bankruptcy**

Where any company commits an offence under this Act, any penalty or award against that company takes precedence over any secured or preferred claim lodged in any action for bankruptcy against that company.

**56 Repeal of Act and continuation of regulations**

(1) The Environment Act 2003 is repealed.

(2) The Biosafety (Genetically Modified Organisms) Regulations 2006 and the Ozone Layer Protection Regulations 2007 are continued as if made under this Act and may be amended or revoked under this Act.

**57 Consequential amendments to Water Act 2012**

(1) This section amends the Water Act 2012.

(2) Section 2(1) is amended by inserting in their appropriate alphabetical order:

"**infringement notice** means a notice alleging the commission of an infringement offence

"**infringement offence** means an offence against this Act or regulations made under this Act that is classified as an infringement offence by regulations made under this Act."

(3) Section 30(2) is amended by inserting "using water for any purpose, including for" after "body corporate".

(4) Section 42 is amended by inserting the following subsection after subsection (2):

"(3) The holder of water pollution control licence may be charged a levy for the activity to which the licence relates and may be subject to any regulations prescribed under this Act."

(5) Section 54 is repealed and the following section is substituted—

"**54 Infringement offences**

"(1) If a person is alleged to have committed an infringement offence, the person may—

"(a) be proceeded against in the normal manner by the laying of an information against the person; or

"(b) be served with an infringement notice by a constable delivering it or a copy of it personally to the person's last known place of residence or business.

"(2) An infringement notice must be in the prescribed form and must state—

"(a) details of the alleged infringement offence that are sufficient to fairly inform the person of the time, place, and nature of the alleged offence; and

"(b) the amount of the infringement fee; and

"(c) an address at which the infringement fee may be paid; and

"(d) the time within which the infringement fee must be paid; and

"(e) that the person has a right to request a hearing; and

"(f) what will happen if the person does not pay the fee and does not request a hearing; and

"(g) any other prescribed information.

"(3) If the person pays the infringement fee within the period stated in the infringement notice,—

"(a) no further action may be taken against the person; and

"(b) no conviction may be entered against the person for the offence.

"(4) If the person does not pay the infringement fee or request a hearing within the period stated in the infringement notice, the responsible Director must serve the person with a reminder notice in the prescribed form that contains the same or substantially the same particulars as the infringement notice.

"(5) If the person does not pay the infringement fee or request a hearing within the period stated in the reminder notice, proceedings may be commenced against the person by filing the reminder notice with the Court and, for that purpose,—

"(a) the reminder notice must be treated as the information for the infringement offence; and

"(b) the Court is deemed to have made an order, on the date that the reminder notice is filed, that the defendant pay a fine equal to the amount of the infringement fee together with costs in the prescribed amount, but no conviction is entered against the person.

"(6) A person requests a hearing by providing to the Director, within the period specified in the infringement notice or reminder notice, as the case may be, a notice, signed by the person, requesting a hearing and accepting or rejecting liability and, if accepting liability, the reasons, if any, why the Court should impose a lesser fine than the infringement fee for the offence.

"(7) A person found guilty at a hearing held for the purposes of subsection (6) is liable to a fine equal to the amount of the infringement fee (unless the Court imposes a lesser amount) together with costs in the prescribed amount, but no conviction is entered against the person.

"(8) To avoid doubt, if a person commits an infringement offence and proceedings against the person are taken in the normal manner under subsection (1)(a), the person is liable to pay not the infringement fee but the amount that the Court determines in accordance with section 52. However, no conviction may be entered against the person."

(6) Section 66 is amended by repealing paragraph (c) and substituting the following paragraphs—

"(c) declaring which offences against this Act or regulations made under this Act constitute infringement offences;

"(cc) prescribing infringement fees not exceeding 5 penalty units for infringement offences (which may be different fees for different offences, including different fees for a first, second, or subsequent offence);"

**58 Consequential amendments to Domestic Fishing Act 1995**

This section amends the Domestic Fishing Act 1995.

Section 2(1) is amended by inserting their appropriate alphabetical order:

"**infringement notice** means a notice alleging the commission of an infringement offence

"**infringement offence** means an offence against this Act or regulations made under this Act that is classified as an infringement offence by regulations made under this Act."

The following section is inserted after section 24—

**"24A Infringement offences**

"(1) If a person is alleged to have committed an infringement offence, the person may—

"(a) be proceeded against in the normal manner by the laying of an information against the person; or

"(b) be served with an infringement notice by a constable delivering it or a copy of it personally to the person's last known place of residence or business.

"(2) An infringement notice must be in the prescribed form and must state—

"(a) details of the alleged infringement offence that are sufficient to fairly inform the person of the time, place, and nature of the alleged offence; and

"(b) the amount of the infringement fee; and

"(c) an address at which the infringement fee may be paid; and

"(d) the time within which the infringement fee must be paid; and

"(e) that the person has a right to request a hearing; and

"(f) what will happen if the person does not pay the fee and does not request a hearing; and

"(g) any other prescribed information.

"(2) If the person pays the infringement fee within the period stated in the infringement notice,—

"(a) no further action may be taken against the person; and

"(b) no conviction may be entered against the person for the offence.

"(4) If the person does not pay the infringement fee or request a hearing within the period stated in the infringement notice, the Director must serve the person with a reminder notice in the prescribed form that contains the same or substantially the same particulars as the infringement notice.

"(5) If the person does not pay the infringement fee or request a hearing within the period stated in the reminder notice, proceedings may be commenced against the person by filing the reminder notice with the Court and, for that purpose,—

"(a) the reminder notice must be treated as the information for the infringement offence; and

"(b) the Court is deemed to have made an order, on the date that the reminder notice is filed, that the defendant pay a fine equal to the amount of the infringement fee together with costs in the prescribed amount, but no conviction is entered against the person.

"(6) A person requests a hearing by providing to the Director, within the period specified in the infringement notice or reminder notice, as the case may be, a notice, signed by the person, requesting a hearing and accepting or rejecting liability and, if accepting liability, the reasons, if any, why the Court should impose a lesser fine than the infringement fee for the offence.

"(7) A person found guilty at a hearing held for the purposes of subsection (6) is liable to a fine equal to the amount of the infringement fee (unless the Court imposes a lesser amount) together with costs in the prescribed amount, but no conviction is entered against the person.

"(8) To avoid doubt, if a person commits an infringement offence and proceedings against the person are taken in the normal manner under subsection (1)(a), the person is liable to pay not the infringement fee but the amount that the Court determines in accordance with section 24. However, no conviction may be entered against the person."

Section 28 is amended by inserting, as subsection (2), the following subsection—

"(2) The regulations may, without limitation,—

"(a) create offences for contravention of the regulations and prescribe penalties not exceeding 5 penalty units for such offences:

"(b) declare which offences against this Act or regulations made under this Act constitute infringement offences:

"(c) prescribe infringement fees for infringement offences (which may be different fees for different offences, including different fees for a first, second, or subsequent offence) not exceeding the lesser of the following—

"(i) 5 penalty units; or

"(ii) the maximum penalty specified in the section of this Act that creates the offence (in the case of an offence against this Act that is declared to be an infringement offence)."

**59 Consequential amendments to Territorial Sea and Exclusive Economic Zone Act 1996**

(1) This section amends the Territorial Sea and Exclusive Economic Zone Act 1996.

Section 2(1) is amended by inserting their appropriate alphabetical order:

"**infringement notice** means a notice alleging the commission of an infringement offence

"**infringement offence** means an offence against this Act or regulations made under this Act that is classified as an infringement offence by regulations made under this Act."

The heading to Part 10 is amended by inserting "AND INFRINGEMENT OFFENCES" after "LIABILITY".

The following section is inserted after section 59—

"**59A Infringement offences**

"(1) If a person is alleged to have committed an infringement offence, the person may—

"(a) be proceeded against in the normal manner by the laying of an information against the person; or

"(b) be served with an infringement notice by a constable delivering it or a copy of it personally to the person's last known place of residence or business.

"(2) An infringement notice must be in the prescribed form and must state—

"(a) details of the alleged infringement offence that are sufficient to fairly inform the person of the time, place, and nature of the alleged offence; and

"(b) the amount of the infringement fee; and

"(c) an address at which the infringement fee may be paid; and

"(d) the time within which the infringement fee must be paid; and

"(e) that the person has a right to request a hearing; and

"(f) what will happen if the person does not pay the fee and does not request a hearing; and

"(g) any other prescribed information.

"(2) If the person pays the infringement fee within the period stated in the infringement notice,—

"(a) no further action may be taken against the person; and

"(b) no conviction may be entered against the person for the offence.

"(4) If the person does not pay the infringement fee or request a hearing within the period stated in the infringement notice, the Director must serve the person with a reminder notice in the prescribed form that contains the same or substantially the same particulars as the infringement notice.

"(5) If the person does not pay the infringement fee or request a hearing within the period stated in the reminder notice, proceedings may be commenced against the person by filing the reminder notice with the Court and, for that purpose,—

"(a) the reminder notice must be treated as the information for the infringement offence; and

"(b) the Court is deemed to have made an order, on the date that the reminder notice is filed, that the defendant pay a fine equal to the amount of the infringement fee together with costs in the prescribed amount, but no conviction is entered against the person.

"(6) A person requests a hearing by providing to the Director, within the period specified in the infringement notice or reminder notice, as the case may be, a notice, signed by the person, requesting a hearing and accepting or rejecting liability and, if accepting liability, the reasons, if any, why the Court should impose a lesser fine than the infringement fee for the offence.

"(7) A person found guilty at a hearing held for the purposes of subsection (6) is liable to a fine equal to the amount of the

infringement fee (unless the Court imposes a lesser amount) together with costs in the prescribed amount, but no conviction is entered against the person.

"(8) To avoid doubt, if a person commits an infringement offence and proceedings against the person are taken in the normal manner under subsection (1)(a), the person is liable to pay not the infringement fee but the amount that the Court determines in accordance with the relevant penalty provision in this Act that applies when proceedings are taken in the normal manner under subsection (1)(a). However, no conviction may be entered against the person."

Section 60 is amended by inserting the following subsection after subsection (2)—

"(3) The regulations may also, without limitation,—

"(a) prescribe fees or charges for the purposes of this Act, or a means by which fees or charges for the purposes of this Act may be calculated or ascertained:

"(b) create offences for contravention of the regulations and prescribe penalties not exceeding 5 penalty units for such offences:

"(c) declare which offences against this Act or regulations made under this Act constitute infringement offences:

"(d) prescribe infringement fees for infringement offences (which may be different fees for different offences, including different fees for a first, second, or subsequent offence) not exceeding the lesser of the following—

"(i) 5 penalty units; or

"(ii) the maximum penalty specified in the section of this Act that creates the offence (in the case of an offence against this Act that is declared to be an infringement offence)."

**60 Continuation of employment**

All employees of the Department who were appointed before the commencement of this Act are deemed to have been appointed under sections 35 and 38 and, subject to this Act, continue on the terms and conditions of their original appointment.

I, TOGIAVALU PIHIGIA, Speaker of the Niue Assembly, certify that the requirements of Article 34 of the Niue Constitution have been complied with.

**SIGNED AND SEALED** at the Assembly Chambers this 29th day of October 2015.

Speaker of the Niue Assembly

**COUNTERSIGNED** in the presence of the Speaker

Clerk of the Niue Assembly

This Act is administered by the Environment Department.

This Act was passed by the Niue Assembly on the 28th day of September 2015.

# Fakatufono Tohi ma e Takatakaimotu 2015

## Numela 333

**Tau Matakupu**


1 Higoa 3
2 Kamataaga 3


**Vala 1**
**Tau Fakamaamaaga**


3 Fakakakanoaga 3
4 Kakano he holia he foliaga fakatakatakaimotu 7
5 Ko e Fakatufono Tohi nai ke fakavē ki ai e Fakatufono 7
6 Tau fekau ke mailoga ki ai 7
7 Nākai fakagahua e Fakatufono Tohi ke he falu a tau gahua kua taute ai he magaaho nai 8


**Vala 2**
**Puipuiaga fakatakatakaimotu**
*Tau fakamooliaga atihake*


8 Kua lata ke fai fakamooliaga atihake ma e falu a gahua he magaaho nai kua fakalauia e takatakaimotu 8
9 Tau taofiaga ke he foakiaga he fakamooli atihake 10
10 Kua lata he tagata fakamooli ke fakailoa ke he Faahi Gahua e tau hikihikiaga ha ko e falu a fekau foki 10
11 Ke nākai fakagahua e falu a gahua he fakamooli atihake 10
12 Tau gahua kua lauia ai e atihakeaga mo e mouaaga he fakaatāaga 11


*Tau foliaga fakatakatakaimotu*


13 Tālagaaga he tau foliaga fakatakatakaimotu 12
14 Tau gahua kua lauia e fakaaogaaga he fonua 12
15 Uta keheaga he tau kiva mo e falu foki 12
16 Tau gahua ke fakakelea aki e tau tokaaga vaimagalo 12
17 Tau gahua ke lauia e tau matakavi tahi 13
18 Tau gahua kua lauia e tau manu momoui 13
19 Tau gahua kua lauia e tau lākau 13
20 Tau gahua ke lauia e meā he matagi mo e pulagi 13
21 Puipuiaga he tau leo hohā 14


*Fakakeheaga he tau moko momoui*


22 Atihakeaga, fakaaogaaga mo e tiviaga he tau moko momoui kua fakakehe 14


*Tau Matakavi Puipui*


23 Puipuiaga he tau Matakavi 14
24 Tau matakavi puipui mo e tau fakavēaga fakatakatakaimotu 15

*Tau vahega lākau puipui*

25 Tau vahega lākau puipui 15

26 Tau vahega lākau puipui mo e tau fakavēaga fakatakatakaimotu 16

*Fakafehagaiaga he Fakatufono Tohi mo e falu a matafakatufono pihia foki mo e tau fakatokatokaaga fakamatafakatufono*

27 Fakafehagaiaga he Fakatufono Tohi mo e falu a matafakatufono pihia foki mo e tau fakatokatokaaga fakamatafakatufono 16

**Vala 3**

**Fakaaogaaga**

28 Ko e agahala ka nākai muitua ke he Fakatufono Tohi 17

29 Tau agahala laulahi 18

30 Tau agahala fakatauhele 18

31 Tau lagomatai ma e lauiaaga fakatakatakaimotu 20

32 Tau lagomatai ke lata ma e tau lauiaaga fakatakatakaimotu he tau magaaho i mua 21

33 Tau fekau ke mailoga ki ai 21

34 Falu agahala foki ke lata mo e tau lauiaaga fakatakatakaimotu 22

35 Tau fakahala gahua ke he maaga 23

36 Falu a tonuhiaaga gahua mo e tau lagomataiaga 23

**Vala 4**

**Fakagahuaaga**

*Faahi Gahua Takatakaimotu* 23

37 Ke fakatumau e Faahi Gahua Takatakaimotu 23

38 Tau gahua he Faahi Gahua 23

39 Falu a gahua atu foki he Faahi Gahua ma e tau maveheaga fakalalolagi 25

40 Kau gahua he Faahi Gahua 26

41 Malolō he Ulufakatonu ke foaki e tau gahua 26

42 Hokotaki lagataha he tau 26

43 Puipuiaga ke lata mo e tagata gahua 27

*Tau ofisa takatakaimotu*

44 Fifiliaga he tau ofisa takatakaimotu 27

45 Fakamailogaaga he tau ofisa takatakaimotu 27

46 Tau malolō he tau ofisa takatakaimotu ke taute e tau tiviaga 28

47 Tau fakamooliaga mo e tau taliaaga ke taute e tau tiviaga 29

48 Malolō he tau ofisa takatakaimotu ke taofi mo e uta kehe e tau koloa fakamooli 29

49 Malolō he tau ofisa takatakaimotu ke taofi mo e uta kehe falu a vahega veve 29

50 Ko e malolo ke fakagahua ke he Tohi Gahua 30

**Vala 5**

**Tau tupe totogi mo e ke liu totogi atu**

51 Maeke he Fono Ikipule ke fatifati e tau tupe totogi 31

52 Tau tupe totogi ke lata mo e tau koloa fakaaoga 31

**Vala 6**
**Falu matakupu foki**


| | | |
|---|---|---|
| 53 | Tau lā fakatufono | 32 |
| 54 | Totogi he Kautaha | 33 |
| 55 | Lauia e Kautaha ke he ha Ulumoumou | 33 |
| 56 | Tau Utakeheaga | 33 |
| 57 | Tau Fakahuiaga Mahuiga ma e Fakatufono tohi ke lata ia ma e ai 2012 | 34 |
| 58 | Tau Hikihikiaga ke lata mo e tau Matafakatufono Vala Tahi mo e Futi Iika ha Niue | 36 |
| 59 | Tau Hikihikiaga ke lata mo e tau Matafakatufono Vala Tahi ha Niue | 38 |
| 60 | Matutakiaga ke gahua | 41 |


---

**Ko e Fakatufono Tohi ke lata ma e puipuiaga mo e levekiaga he takatakaimotu ha Niue mo e, ke lata ma e hagaaoaga ia, -**

**(a) Ke fakamooli e tauteaga he tau foliaga fakatakatakaimotu ke fuafua aki e tau gahua kua lauia ai e takatakaimotu ha Niue; mo e**

**(b) ke mailoga kua fai onoonoaga e tau faahi gahua oti he fakatufono mo e tau hukui he tau tagata ke he tau fekau fakatakatakaimotu he tau magaaho ka taute ai e tau fifiliaga kaeke kua fai po ke maeke ke fai lauiaaga ke he takatakaimotu ha Niue.**

**Kua taute fakamatafakatufono ai he Fono Ekepule e tau matakupu nā i lalo -**

1 **Higoa**
Ko e Fakatufono Tohi ma e Takatakaimotu 2015 e Fakatufono Tohi nai.

2 **Kamataaga**
Ke fakagahua e Fakatufono Tohi nai he aho ka mole atu e aho ne fakamooli ai ko e matafakatufono tuga ne tohia ai ke he Matakupu 34 he Tohi Fakave.

**Vala 1**
**Tau Fakamaamaaga**

3 **Fakakakanoaga**
Ki loto he Fakatufono Tohi nai, a to kehe mai kaeke kua fakakite mai pihia -

**Holia fakatakatakaimotu** haia e kakano kua fakakite mai he matakupu 4

**Fakafiliaga** kakano ko e fakafiliaga ha Niue

**Faahi Gahua** kakano –

(a) Ko e Faahi Gahua Takatakaimotu ne fakatū ki lalo hifo he matakupu 5 he Fakatufono Tohi Takatakaimotu 2003 mo e fakatumau agaia ke he matakupu 32 he Fakatufono Tohi nai; po ke

(b) ha faahi gahua foki ke taute e fakaholoaga gahua he Fakatufono Tohi nai

**Fakamooli atihake** kakano ko e fakamooli atihake ne kua foaki ma e gahua, kakano ko e fakamooli atihake ke taute po ke matutaki atu e gahua kaeke kua taute pihia

**Ulufakatonu** ko e Ulufakatonu he Faahi Gahua Takatakaimotu po ke Ulufakatonu he Faahi Gahua ne fakagahua e Fakatufono Tohi nai, kaeke kua taute pihia

**Takatakaimotu** –

(a) Kakano ko e tau mena momoui oti mo e gahua tumau; mo e

(b) putoia –

(i) fonua, tau matakavi tahi, tau vai magalo mo e matagi

(ii) takatakaimotu mo e ha lautolu a tau valavala, putoia e tau tagata mo e tau maaga

(iii) ko e tau mena momoui oti mo e gahuahua mitaki ke he tau matakavi ke maeke he tau tagata ke fakaaoga mo e fiafia ki ai, fulufuluola mitaki, mo e tau aga fakamotu mo e tau fakafiafia (iloa lahi ko e tau gahua mahuiga)

**Ofisa takatakaimotu** kakano ko e tagata kua moua e kotofa nai he magaaho ia ki lalo hifo he matakupu 38

**Lauiaaga fakatakatakaimotu** kakano ko e lauiaaga ke he taha he tau matakupu 12 ke he 20

**Fakakelea he takatakaimotu** kakano kua eke fakakelea mo e popo e tau koloa he takatakaimotu

**Fuafuaaga he tau gahua takatakaimotu,** kakano ko e fuafuaaga he tau gahua ne lauia po ke amamanaki ke lauia e takatakaimotu.

**Tau lā fakatufono fakatakatakaimotu** kakano ko e tau lā fakatufono kua taute ki lalo hifo he matakupu 11(1), 21, 23, po ke 46

**Foliaga fakatakatakaimotu**

(a) kakano ko e foliaga ne kua taute fakalā fakatufono ki lalo hifo he matakupu 11(1);

(b) putoia ai;

(i) ko e lā fakatufono ne kua taute ki lalo hifo he matakupu 21 ke puipui aki e tau vala kelekele; mo e

(ii) ko e lā fakatufono ne kua taute ki lalo hifo he matakupu 23 ke puipui e taha vahega po ke falu a vahega lākau; mo e

(iii) ha fakaholoaga gahua vaouhi kua taute fakamatafakatufono.

**Tokaaga vaimagalo** –

(a) kakano ko e ha tokaaga vaimagalo ke he ha fonua; mo e

(b) nākai fakakaupā e laulahiaga he palatafa (a) ke putoia ai e –

(i) vaimagalo he lalofonua; mo e

(ii) tokaaga he vaimagalo he lalofonua; mo e

(iii) taha pū vai po ke vaikeli kua fai matutakiaga ke he taha vaimagalo he lalofonua

**Tu tokotaha hagaao ke he fuafuaaga he tau gahua takatakaimotu,** kakano ko e fuafuaaga ne kua taute ni ki lalo hifo he tau lā fakatufono fakatakatakaimotu

**Fakailoaaga fakatauhele** kakano ko e fakailoaga kua fai talahauaga kua fai agahala fakatauhele ne kua taute

**agahala fakatauhele** kakano ko e agahala kua holia ke he Fakatufono Tohi nai ne kua talahau ai ko e agahala fakatauhele ke he po ke ka muitua ke he matakupu 26(6)

**Fonua** –

(a) kakano ko e fonua fakatufono mo e fonua Niue; ti

(b) putoia ai e –

(i) mataafaga (ki lalo hifo he fakakakanoaga he matakupu 2 he Fakatufono Tohi Tau Maila Tahi ha Niue 1996); mo e

(ii) kelekele po ke fonua he uhotoka he tau maila tahi oti ha Niue; mo e

(iii) ha tupuaga he uhotoka he tau vala tahi ha Niue (tuga e uluulu po ke tofola) ko e taha vala mai he taha magaaho ke he taha magaaho, po ke lavea ke eaea hake ki luga he puke tahi; mo e

(iv) taha lākau kua tupu he fonua; mo e

(v) taha fale, ha tālagaaga, po ke ha mena foki kua piki mau ke he fonua

**Moko moui kua fakakehe** -

(a) Kakano ko e ha moko moui kua fai mena kua fakakehe aki ke he tau pūhala lafilafi he vahānai (tau pūhala ne nākai fakaaoga ke he tau aga fakamotu ke fakapā loga mo e fifili kua molea atu e tau kaupāaga tupuaga fakatufugatia po ke tau kaupāaga liu lafilafi; mo e

(b) putoia ai foki e tau fua he fonua (tuga e talo) ne kua fakakehe ke moua loga e tau talo po ke nākai kai he tau moko po ke moua he tau gagao

**Matakavi tahi** kakano –

(a) ko e tau vala tahi ha Niue

(b) ko e tau vala tahi 200 maila mamao ha Niue

**Ikipule** kakano ko e Ikipule kua leveki e Faahi Gahua

**Moko** –

(a) Kakano ko e moko ne kua maeke ke fifitaki mo e pikitia e tau mena ne kua tauteute aki e tau mena momoui oti; mo e

(b) Putoia ai foki e –

(i) Tau moko kua nakai maeke ke fanafanau; mo e

(ii) Tau moko kehekehe ne maeke ke utaviko e tau gagao, tau moko ikiiki lalahi ne maeke ke fifitaki atu ke he tau mena momoui mo e falu moko foki ne maeke ke pikitia e tau gagao; mo e

(iii) Tau moko ikiiki lalahi; mo e

(iv) Ke fakatatai atu ke he veveheaga (c), ko e tau moko ne maeke ke fakafanau ni a ia (pete ni ko e maeke ke taute fakakatoa po ke falu vala ni); mo e

(v) Tau valavala he moko ne maeke ke moua katoa po ke nakai; mo e

(vi) Tau vala moko ne nakai katoatoa; ka e

(c) Nakai lalafi aki e tau koloa maopoopo he tino tagata po ke ha vala tino tagata

**Fakahikuaga** putoia ai e logonaaga

**Ke tauteute** kakano ke tauteute i loto he lā matafakatufono tuga ne kua fakamooli he fakatufono tohi nai.

**Matakavi leveki** kakano ko e matakavi fonua ne kua talahau ko e matakavi leveki ki lalo hifo he matakupu 21.

**Tau vahega lākau puipui** kakano ko e taha vahega lākau kua talahau ko e vahega lākau puipui ki lalo hifo he matakupu 23

**Matapatu lekua fakatakatakaimotu** kakano ko e lekua kua lauia lahi ai e takatakaimotu, tau malolō tino he tau tagata, po ke tupu olaola he tau manu mo e tau lākau i lalo hifo he matakupu 7

**Gahua fakalaulahi fakatekiteki** kakano ko e tau gahua ne kua lata mo e atuhau nai ka e nakai fakakelea e tau gahua he atuhau i mua ke moua ha lautolu a tau monuina mai he tau koloa takatakaimotu mo e lagomatai ke he tau vahega takatakaimotu taki taha

**tapu** kakano ko e matakavi po ke vala fonua ne kua mahuiga ke he tau Niue ha ko e tau manatu fakataputapu kua hāhā ki ai

**tau veve**—

(a) kakano ko e tau veve ne kua tiaki po ke tolo ke he vao; mo e

(b) putoia ai –

(i) e tau tē vai

(ii) ko e ha veve he ha veve ne kua talahau ai ke he falu a talahauaga (tuga e tau veve mai he tau tagata, tau veve mai he tau manu, tētēmoko, tau veve mai he tau koloa hila, tau veve kona po ke tau veve malona mai he tau matakavi talagi po ke tau veve mai he moumou koloa).

**4 Kakano he holia he foliaga fakatakatakaimotu**

(1) Ke lata ma e tau hagaaoaga he Fakatufono Tohi nai, ko e tagata kua **taute mena ke he pūhala ke holia e foliaga fakatakatakaimotu** kaeke (ke he magaaho kua tauteute ai ke taute, taute po ke fakafehagaiaga mo e tau mena ke tutupu mai hā ko e tauteaga he gahua ne kua puipui he foliaga) ko e tagata -

(a) kua taute e ia e mena kua nākai fakagofua mai he foliaga; po ke

(b) kua taute e mena kua fai fakahikuaga (fakahako po ke nākai fakahako) po ke putoia ai e fakahikuaga kua nākai fakagofua he foliaga; po ke

(c) nākai maeke po ke nākai manako ke fakaaoga e ha pūhala kua hā i ai ke mailoga aki e fakahikuaga kua nākai fakagofua he foliaga ke nākai fakahoko; po ke

(d) nākai maeke po ke nākai manako ke taute e ha mena ke lata ma e foliaga; po ke

(e) nākai maeke po ke nākai manako ke taute taha mena ke fai fakahikuaga mai e nākai maeke po ke nākai manako ia (fakahako po ke nākai fakahako) kua ha I ai po ke putoia ai e taha fakahikuaga kua nākai fakagofua he foliaga; po ke

(f) nākai maeke po ke nākai manako ke fakaaoga e ha pūhala kua hā i ai ke mailoga aki kua fai fakahikuaga kua moua mai he foliaga.

(2) Ko e matakupu nai, **ko e gahua kua puipui he foliaga** kakano ko e vahega gahua kua fakamahino mai he foliaga fakatakatakaimotu ko e matapatu fekau he foliaga haia.

**5 Fakatufono Tohi nai ke fakavē ki ai e Fakatufono**

Ko e Fakatufono Tohi nai ke fakavē ki ai e Fakatufono

**6 Tau fekau ke mailoga ki ai**

Kua lata he tau tagaga oti ne fai kotofaaga mo e pule i lalo hifo he Fakatufono nai ke mailoga, ke he tau mena nai:

(a) tau gahua leveki mo e lagomatai atu ke he tau koloa takatakaimotu

(b) fakaaogaaga mitaki mo e fakalaulahi he tau koloa fonua mo e takatakaimotu

(c) tau manatu ke he fakalaulahi fakakitekite ke he takatakaimotu

(d) levekiaga he vai mai he tau kiva kehekehe

(e) levekiaga he tau akau motu mo e tau manu motu oti mo e tau matakavi ne tutupu ai a lautolu

(f) levekiaga he tau tōafa mo e tau matahala tahi mai he tau gahua fakahanoa mo e fakalaulahi

(g) levekiaga he tau matakavi tapuina mo e mahuiga ke lata mo e tāoga Niue mai he tau gahua fakahanoa mo e fakalaulahi

(h) matutakiaga he tau tagata Niue mo e tau mahani fakamotu mo e tāoga he tagata ke he tau vala kelekele mo e tau matakavi tapuina

(i) ko e levekiaga mo e fakaaogaaga fakamitaki he tau koloa takitaha ne potaia ke he takatakaimotu

(j) laveaki atu ke he tau fakaholoaga ne kua talia e Niue ke matutaki atu ki ai mo e falu motu kehekehe he lalolagi

7 **Nākai fakagahua e Fakatufono Tohi ke he falu a tau gahua kua taute ai he magaaho nai**

Nākai fakagahua e Fakatufono Tohi nai ke he ha gahua kua –

(a) maopoopo to kamata e Fakatufono Tohi nai; po ke

(b) kua fakamooli ki lalo hifo he Fakatufono Tohi Takatakaimotu 2003; po ke

(c) kua kamata fakamatafakatufono to kamata e Fakatufono Tohi nai mo e

(i) fai po ke liga ke fai kitiaaga kua tatai po ke teitei tatai e tau foliga, mamafa mo e lahi ka fakatatai atu ke he falu he tau gahua kua fai tonuhia fakamatafakatufono ke taute to kamata e Fakatufono Tohi nai; po ke

(ii) nākai fai fakaokiokiaga tali mai he kamata, ke he 6 e tau mahina he leva (ko e magaaho katoa po ke vala magaaho he mole atu e kamataaga ia.)

## Vala 2
## Puipuiaga fakatakatakaimotu

*Tau fakamooliaga atihake*

8 **Kua lata ke fai fakamooliaga atihake ma e falu a gahua he magaaho nai kua fakalauia e takatakaimotu**

(1) Fakaaoga e matakupu nai ke he gahua kaeke –

(a) 1 po ke loga e tau talahauaga kua putoia tuga a nā i lalo;

(i) to fai po ke liga fai lekua fakatakatakaimotu kelea lahi;

(ii) ki loto he foliaga fakatakatakaimotu ko e matagahua to eke ia mo gahua ke aua ia neke kamata po ke matutaki atu ato moua fakamua e fakamooliaga atihake;

(iii) ki loto he foliaga fakatakatakaimotu ko e gahua to eke ia ke maeke po ke liga maeke ke fai lekua fakatakatakaimotu kua kelea lahi;

(iv) to holia po ke liga to holia he gahua e foliaga fakatakatakaimotu; mo e

(b) ko e falu a gahua ne nakai -

(i) fakagahua tuga ne tohia ki loto he matakupu 6; po ke

(ii) ha matagahua ne toka ki loto he matakupu 10(1).

(2) Nākai maeke e ha tagata ke kamata e ha gahua kua muitua ki ai e taha vala he matakupu nei a to moua fakamua e fakamooliaga atihake ke kamata aki.

(3) Nākai maeke e ha tagata ke fakamatutaki atu e ha gahua kua muitua ki ai e taha vala he matakupu nei a to moua fakamua e fakamooliaga atihake ke taute aki po ke fakamatutaki atu.

(4) Fakamooliaga atihake ma e gahua kua fakahagaao ki ai e matakupu nai-

(a) kua lata nī ke taute tohi ole ke moua aki muitua ke he tau lā fakatufono fakatakatakaimotu, mo e

(b) maeke ke foaki -

(i) mo e fai fakavēaga po ke nākai fai fakavēaga (putoia fakalataha ai e fakavēaga ke maeke he fakavēaga ke fakahui, po ke lalafi ki luga foki e taha po ke loga atu e tau fakavēaga, he magaaho ka fakagahua ai e fakamooliaga); mo e

(ii) he Faahi Gahua po ke Ikipule, muitua nī ke he tau fakatokaaga he

tau lā fakatufono.

(5) Kua lata foki ke taute e taha kitekiteaga mo e onoonoaga fakatakatakaimotu ne kua tu tokotaha ke he tau mena ke lauia ai e takatakaimotu hā ko e gahua fakalataha mo e taha vala foki he tauteaga ke moua aki e fakamooliaga atihake.

(6) Ko e fuafuaaga ke he tau mena ke lauia ai e takatakaimotu -

(a) kua lata ke taute muitua ke he tau lā fakatufono mo e

(b) liga ko e -

(i) tauteaga lagataha, ke hā i ai e fuafuaaga he kamataaga; po ke

(ii) tauteaga ua e vala, ke fai fufuaaaga he kamataaga mo e katoatoaaga

(7) Ke nākai foaki e fakamooli atihake ma e ha gahua kua fai tonuhia mai he matakupu nai a to kehe mai kaeke kua taute fakamua e fuafuaagake he tau mena ke lauia ai e takatakaimotu.

**9 Tau taofiaga ke he foakiaga he fakamooli atihake**

(1) Ka moua e tohi ole ke lata mo e fakamooli atihake, kua lata he Ulu Fakatonu ke fakailoa atu ke he tau tagata oti 2 e faahi tapu ke –

(a) fakakite e tau gahua ke lata mo e tohi ole; mo e

(b) tuku atu ke he tau tagata ne manako ke fakailoa ke he Ulu Fakatonu ko e talia po ke nakai talia mo e tau kakano kua fifili pihia; mo e

(c) fakakite e aho fakahiku ke lata mo e tau fakailoaaga ke moua mo e higoa he tagata ke tohia e tau fakailoaaga ki ai pihia mo e matakavai ke fakafano atu e tau fakailoaaga nai.

(2) Maeke ke Ulu Fakatonu ke –

(a) ole atu ke he tagata ne nakai talia po ke tagata ne tohi ole ke fakakite atu falu fakamaamaaga foki; mo e,

(b) fakatolomaki atu e onoono ke he tau manatu totoko po ke talia ato moua oti e tau fakailoaaga nai ke he tau magaaho ne kua fafati, ua talia ke onoono atu ke he fakailoaga totoko po ke tau manatu ne kua fakakite.

(3) Ato moua taha fakahikuaga ke he tohi ole ne kua fai manatu totoko kua moua ki ai, kua lata he Ulu Fakatonu ke fakamakamaka ke moua taha fifiliaga ke he tau manatu ne kua fakakite mai he taofiaga he fekau, ti taute e taha tutalaaga auloa mo e tagata tohi ole mo ia ne manako ke taofi ke kitia ko e maeke nakai ke talia ke he tau manatu fakakite he magaaho ne totoko ai.

**10 Kua lata he tagata fakamooli ke fakailoa ke he Faahi Gahua e tau hikihikiaga ha ko e falu a fekau foki**

(1) Fakagahua e matakupu nai kaeke kua lata e tagata kua toka ai e fakamooli atihake ma e gahua ke fakailoa, fakatutala, po ke fakailoa e ha talahauaga ke he Ulufakatonu po ke Faahi Gahua hā ko e fakavēaga he fakamooliaga atihake,

(2) Kua lata he tagata kua toka ai e fakamooli atihake, ke fakailoa fakamafiti ke he Faahi Gahua e ha hikiaga ke he tau fekau ne kua fai talahauaga ke moua aki e ha fakailoaga kua fakailoa, fakatutala po ke hokotaki ne kua nākai mooli, nākai maopoopo po ke fakavaia.

**11 Ke nākai fakagahua e falu a gahua he fakamooli atihake**

(1) Maeke he Ulufakatonu ke taofi fakakū e fakamooli atihake ne kua foaki ma e ha fakamooli atihake, ke he taha tohi ke fakailoa ke he tagata kua toka ai e fakamooli atihake, kaeke kua fai tuahā a ia kua fakatauhele po ke ligaliga ke fakatauhele e taha fakavēaga he fakamooliaga.

(2) Ko ia e tagata fai fakamooli atihake ne kua fai fakailoaaga ki lalo hifo he taha vala he matakupu (1) ke fakaokioki e gahua a to fai fakakiteaga a ia kua talia ki ai e Ulufakatonu to taute e ia e gahua muitua ke he tau fakavēaga he fakamooliaga.

(3) Kaeke kua nākai fakamakona e loto he Ikipule ki lalo hifo he 15 e tau aho gahua he moua e fakailoaaga ki lalo hifo he tah vala he matakupu (1) po ke ha magaaho atu foki nī kua fakaatā ki ai he Ikipule, maeke he Ikipule ke he taha fakailoaaga tohi ki a ia kua fai tohi ke uta kehe e fakamooliaga (pete he kua foaki he Ulufakatonu po ke Ikipule e fakamooliaga)

**12 Tau gahua kua lauia ai e atihakeaga mo e mouaaga he fakaatāaga**

(1) Nākai fakagahua e matakupu 7 ke he gahua kaeke –

(a) ko e gahua kua poaki fakamahino fakamatafakatufono pauaki kehe mai mo e Fakatufono Tohi nai.

(b) kua fakakite fakamahino mai he Fakatufono Tohi nai, tau lā fakatufono po ke taha matafakatufono kehe mai mo e Fakatufono Tohi nai e gahua.

(2) Kaeke kua fai malolō e Fono Ikipule po ke ha faahi gahua he fakatufono po ke taha ofisa he faahi gahua he fakatufono ki lalo hifo he ha matafakatufono, ke taute e ha fakamooliaga, ha laisini po ke ha fakaatāaga foki ke he ha tagata kua fakamooli e tagata ia ke taute e gahua kua fai po ke liga to fai lekua fakatakatakaimotu kua kelea lahi, ko e mena ia, kaeke kua lata ke taute pihia fakamua to foaki e fakaatāaga –

(a) kua lata e Fono Ikipule ke mafola e manamanatuaga-

(i) ko e holia he ha foliaga fakatakatakaimotu kua lata, to nākai moua mai hā ko e foakiaga he fakaatāaga: po ke

(ii) ko ia kua moua e fakaatāaga, ke muitua ke he foliaga fakatakatakaimotu he magaaho ka taute ai e gahua.

(b) kua lata he faahi gahua po ke ofisa gahua ke moua mai e fakamooliaga he Ulufakatonu pete kua fakakite po ke nākai fakakite fakamahino mai he matafakatufono ke moua fakamua e fakamooliaga he Ulufakatonu to foaki e fakaatāaga.

(3) Maeke he Ulufakatonu ke taute e fakamooliaga ke kata ma e taha vala he matakupu (2)(e) kaeke kua makona a ia ko e _

(a) Holia he ha foliaga fakatakatakaimotu, to nākai tupu mai hā ko e mouaaga he fakaatāaga; po ke

(b) Ko ia kua moua e fakaatāaga, ke muitua ke he foliaga fakatakatakaimotu.

*Tau foliaga fakatakatakaimotu*

**13 Tālagaaga he tau foliaga fakatakatakaimotu**

(1) Maeke he Fono Ikipule ke tālaga e tau lā fakatufono ke taute taha foliaga ke fakamatutaki fekau he foliaga aki e taha po ke loga he tau gahua tuga ne kua tohia ai he tau lā fakatufono ke eke ia mo matapatu fekau.

(2) Maeke e foliaga ke tohia e tau vala he takatakaimotu kua lali ke puipui.

(3) Maeke he fakavēaga ke fakamahino –

(a) e tau gahua nākai lata ke kamata po ke matutaki ka e nākai fai fakamooliaga atihake (ke lata ma e fakaaogaaga he matakupu7(1)(a)(ii); mo e

(b) tau gahua ke taute ka e nākai lata ke moua e fakamooliaga atihake (ma e tau fakaaogaaga he matakupu 10(1).

(4) kua nākai lata e fakavēaga ke nākai felauaki mo e falu he ha fakavēaga (fakalataha mo e fakailoaaga puipui vahega lākau po ke fakailoaaga matakavi puipui).

**14 Tau gahua kua lauia e fakaaogaaga he fonua**

Nākai fakagofua e ha tagata ke taute e taha he tau gahua nā i lalo a to kehe mai kaeke kua fakakite fakamahino mai he Fakatufono Tohi nai, ha lā fakatufono fakatakatakaimotu po ke ha fakamooliaga atihake:

(a) ma e ha fakaaogaaga he fonua ke he puhala kua fakatauhele atu ke he fakavēaga fakatakatakaimotu; po ke

(b) ke he tauteaga he ha mena ke he puhala kua fakatauhele atu ke he fakavēaga fakatakatakaimotu kua taute ke puipui aki e fonua.

**15 Uta keheaga he tau kiva mo e falu foki**

(1) Nākai fakagofua e taha tagata ke uta e tau kiva po ke falu foki, fakalataha mo e tau veve ke he pūhala ke holia aki taha foliaga fakatakatakaimotu a to kehe mai kaeke kua fakakite fakamahino mai he Fakatufono Tohi nai, ha lā fakatufono fakatakatakaimotu po ke ha fakamooliaga atihake.

(2) Kua nākai lata e tagata ke uta kehe po ke moumou e tau lapa simeni kona ke he puhala kua fakatauhele e taha fakavēaga fakatakatakaimotu a to kehe mai kaeke kua fakamahino mai he Fakatufono Tohi nai po ke tau lā fakatufono e uta keheaga po ke moumouaga.

**16 Tau gahua ke fakakelea aki e tau tokaaga vaimagalo**

Nākai fakagofua e ha tagata ke taute e taha he tau gahua nā i lalo a to kehe mai kaeke kua fakakite fakamahino mai he Fakatufono Tohi nai, ha lā fakatufono fakatakatakaimotu po ke ha fakamooliaga atihake e gahua:

(a) Ke taute taha mena ke he, ki loto, mo e po ke hagaao ia ke he tokaaga vaimagalo ke he pūhala kc holia aki e taha foliaga fakatakatakaimotu; po ke

(b) taute e taha tauteaga ke he puhala ke tauhele atu ke he foliaga fakatakatakaimotu ne kua taute ma e puipuiaga he fonua.

**17 Tau gahua ke lauia e tau matakavi tahi**

Nākai fakagofua e ha tagata ke taute e taha he tau gahua nā i lalo a to kehe mai kaeke kua fakakite fakamahino mai he Fakatufono Tohi nai, ha lā fakatufono fakatakatakaimotu po ke ha fakamooliaga atihake e gahua:

(a) Ke taute taha mena ke he, ki loto, mo e po ke hagaao ia ke he tau matakavi tahi ke he pūhala ke holia aki taha foliaga fakatakatakaimotu; po ke

(b) Ke taute taha mena ke he pūhala kc holia aki taha foliaga fakatakatakaimotu ne taute ke puipui aki e tau matakavi tahi.

**18 Tau gahua kua lauia e tau manu momoui**

Nākai fakagofua e ha tagata ke taute e taha he tau gahua nā i lalo a to kehe mai kaeke kua fakakite fakamahino mai he Fakatufono Tohi nai, ha lā fakatufono fakatakatakaimotu po ke ha fakamooliaga atihake:

(a) Kua taute e ha tauteaga, ki loto, mo e po ke hagaao ia ke he tau manu ke he pūhala ke holia aki e taha foliaga fakatakatakaimotu; po ke

(e) Kua taute e ha tauteagake he pūhala ke holia aki taha foliaga fakatakatakaimotu ne taute ke puipui aki e tau manu.

**19 Tau gahua kua lauia e tau lākau**

Nākai fakagofua e ha tagata ke taute e taha he tau gahua nā i lalo a to kehe mai kaeke kua fakakite fakamahino mai he Fakatufono Toh nai, ha lā fakatufono fakatakatakaimotu po ke ha fakamooliaga atihake:

(a) Kua taute e ha tauteaga, ki loto, mo e po ke hagaao ia ke he tau lākau ke he pūhala ke holia aki e taha foliaga fakatakatakaimotu; po ke

(b) Kua taute e ha tauteaga ke he pūhala ke holia aki e taha foliaga fakatakatakaimotu ne taute ke puipui aki e tau lākau.

**20 Tau gahua ke lauia e meā he matagi mo e pulagi**

Nākai fakagofua e ha tagata ke taute e taha he tau gahua nā i lalo a to kehe mai kaeke kua fakakite fakamahino mai he Fakatufono Tohi nai, ha lā fakatufono fakatakatakaimotu po ke ha fakamooliaga atihake:

(a) Kua taute e ha tauteaga, ki loto, mo e po ke hagaao ia ke he tau lākau ke he pūhala ke holia aki e taha foliaga fakatakatakaimotu; po ke

(b) Kua taute e ha tauteaga ke he pūhala ke holia aki e taha foliaga fakatakatakaimotu ne taute ke puipui aki e tau lākau.

**21 Puipuiaga he tau leo hohā**

Nākai fakagofua e ha tagata ke taute e taha he tau gahua nā i lalo a to kehe mai kaeke kua fakakite fakamahino mai he Fakatufono Tohi nai, ha lā fakatufono fakatakatakaimotu po ke ha fakamooliaga atihake.

*Fakakeheaga he tau moko momoui*

**22 Atihakeaga, fakaaogaaga mo e tiviaga he tau moko momoui kua fakakehe**

(1) Nākai fakagofua e ha tagata ke taute e ha gahua hagaao ia ke he atihake, tau tivi ke he fonua, tau fakaaogaaga, fakatupuaga po ke tālagaaga he moko moui kua fakakehe a to kehe mai kaeke kua fai fakamooliaga tohi e tagata mai he Ulufakatonu mo e faahi gahua ne fakagahua e Fakatufono Tohi Puipuiaga Gahua Fonua (faahi gahua ne leveki) 1984 ko e moua e gahua mo e fai fakavēaga po ke nākai fai fakavēaga.

(2) Ko e tagata kua taute po ke iloa e fakaholaaga nākai pauaki he moko moui kua fakakehe ke fakailoa fakamafiti ke he Faahi Gahua mo e tau Pule he Tokagamotu, mo e kua lata he Ulufakatonu fakalataha mo e tau Pule he Tokagamotu–

(a) ke taute e tau lagatau oti kua lata ke he magaaho ia ke lata ma e fakaholaaga (ke mailoga e fakavēaga puipui kaeke kua fai malona lahi nākai lata ke fakaaoga e nākai katoatoa he tau iloaaga fakasaiene ke eke ia mo taha kakano uho ke nākai fakaaoga e tau pūhala tau mukamuka ke puipui aki e takatakaimotu mai he tau malona); mo e

(b) fakailoa fakamafiti ke he Ikipule.

*Tau Matakavi Puipui*

**23 Puipuiaga he tau Matakavi**

(1) Ma e tau fakaaogaaga kua tohia ai ke he taha vala he matakupu (2), maeke he Fono Ikipule ke taute, -

(a) Ke he haana a fifiliaga, e ha vala fonua ke eke mo fonua puipui;

(b) Hā ko e ole he Matakau Fono Takitaki Maaga, ke he taha vala fonua i lalo hifo he matakau ke eke mo fonua puipui, ka e taute pihia nī kaeke kua fai fakamooliaga tohi e laulahi he magafaoa he vala fonua ia.

(c) Tau matakavi po ke tau vala fonua ne kua tapu.

(2) Maeke he Fono Ikipule ke taute e taha matakavi ke eke ia mo matakavi puipui ma e taha po ke loga he tau fakaaogaaga nā i lalo:

(a) puipui saiene:

(b) puipui fonua kehekehe e tau fakaaogaaga

(c) puipui tau mena momoui mo e fakafiafia

(d) puipui he tau foliga fakatufugatia fakamahino

(e) puipui ke he tau tauteaga fakaholo gahua

(f) puipui he foliga fonua mo e tahi po ke fakafiafia:

(g) fakaaogaaga fakalatalata mo e tumau he tau koloa tufugatia

(3) Matakavi fonua kua fakamooli ko e fonua puipui ki lalo hifo he matakupu nai kua puipui ke he laulahi tuga kua tohia ai he tau lā fakatufono;

(4) Ka e nākai ke fakakaupā e taha vala he matakupu (2), maeke he puipuiaga ke-

(a) Katoatoa, ko e mena ia nākai maeke ha tagata ke hū atu ke he fonua ti nākai fakagofua foki e ha gahua he tau gahua ke taute ki luga he fonua puipui; po ke

(b) Taha vala, ko e mena ia fakagofua e tau tagata ke oatu ke he fonua ti maeke foki e tau gahua ke taute ke he puhala kua fakamahino mai he fakailoaaga.

(5) Ke nākai hā i ai ha fakauaua, maeke e puipuiaga taha vala he fonua puipui ke fai matutakiaga ke he ha fekau, fakalataha mo e tau gahua nā i lalo:

(a) Fakaatāaga ke hoko atu ke he fonua; mo e

(b) Tau gahua kua maeke po ke nākai maeke ke taute ki luga he fonua, fakalataha mo e tau gahua kua fai matutakiaga ke he tāmate po ke uta kehe mai he ha koloa mai he fonua; mo e

(c) Ko e tau magaaho ke taute ai e tau gahua ki luga he fonua (kaeke kua fai tāpikiaga ke he magahala he tau, mahina, magaaho he aho po ke ha mena foki).

**24 Tau matakavi puipui mo e tau fakavēaga fakatakatakaimotu**

Ko e tau lā fakatufono kua taute ki lalo hifo he matakupu 21 ke puipui aki e vala fonua po ke matakavi tapu, mo e kaeke kua lata, ko e tau mena oti ki luga he vala fonua ia, ke lata ma e tau mena oti ke tuga nī ko e fakavēaga fakatakatakaimotu ne kua taute ki lalo hifo he Fakatufono Tohi nai ma e ha gahua kua taute ai ke he fonua puipui.

*Tau vahega lākau puipui*

**25 Tau vahega lākau puipui**

(1) Ma e tau hagaaoaga ke leveki aki e takatakaimotu ha Niue, maeke he Foho Ikipule ke taute, -

(a) Haana a tau fifiliaga, ke eke e tau vahega lākau mo e tau magafaoa lākau taha ko e tau lākau puipui:

(b) Ke he manako he Matakau Fono Takitaki Maaga, maeke e ha vahega lākau po ke tau magafaoa lākau taha ke cke mo lākau puipui ki loto he maga po ke taha matakavi he maaga, ka e uta nī ke he fakamooliaga tohi mai he laulahi he magafaoa kua fai fonua po ke fai vala fonua ki loto he maaga.

(2) Tau lā fakatufono ne kua taute ma e fakagahuaaga he taha vala he matakupu (1) kua maeke ke taute e taha vahega lākau po ke tau magafaoa lākau kua –

(a) Puipui katoatoa; po ke

(b) Puipui muitua ke he tau mena kua fakakite mai he tau lā fakatufono.

**26 Tau vahega lākau puipui mo e tau fakavēaga fakatakatakaimotu**

Tau lā fakatufono kua taute ki lalo hifo he matakupu 23 ke puipui e taha vahega lākau po ke tau magafaoa lākau ke lata ma e tau mena oti ke tuga nī ko e fakavēaga fakatakatakaimotu ne kua taute ki lalo hifo he Fakatufono Tohi nai ma e ha gahua.

*Fakafehagaiaga he Fakatufono Tohi mo e falu a matafakatufono pihia foki mo e tau fakatokatokaaga fakamatafakatufono*

**27 Fakafehagaiaga he Fakatufono Tohi mo e falu a matafakatufono pihia foki mo e tau fakatokatokaaga fakamatafakatufono**

(1) Kaeke kua nākai felauaki e Fakatufono Tohi nai mo e falu a matafakatufono, kua malolō e Fakatufono Tohi nai.

(2) Kaeke kua nākai felauaki e tau lā fakatufono fakatakatakaimotu mo e ha lā fakatufono, kua malolō e tau lā fakatufono fakatakatakaimotu.

(3) Ke he ha matafakatufono ke fakamooli po ke fakaatā fakamua he Ulufakatonu to fakagahua, maeke he Ulufakatonu ke taute pihia, kaeke ke he ha lalafiaga atu ke he ha fakavēaga kua fakamahino he matafakatufono, kua makona foki haana a loto ko e –

(a) ha foliaga fakatakatakaimotu kua lata, to nākai fai tauhele hā ko e haana a fakamooliaga po ke fakaatāaga; po ke

(b) ko ia e tagata kua age ki ai e fakamooliaga po ke fakaatāaga, kua lata a ia ke muitua ke he foliaga fakatakatakaimotu.

(4) Nākai fakakaupā po ke lauia e manako ke muitua ke he Fakatufono Tohi nai hā ko e manako ke muitua mo e ha tauteaga kua fakatoka he ha matafakatufono po ke ha fakatufono (fakatai, fakamooliaga he fale, laiseni ne kua utakehe po ke laiseni hele akau).

## Vala 3
## Fakaaogaaga

28 **Ko e agahala ka nākai muitua ke he Fakatufono Tohi**

(1) ko e tagata kua holia e taha foliaga fakatakatakaimotu po ke holia e matakupu7(1) kua agahala a ia mo e ke fakahala ke he –

(a) kaeke ko e tagata tokotaha –

(i) ke totogi e tau tupe nākai molea e 500 uniti fakahala po ke nakai molea 2 e tau ke tuku ke he fale puipui, po ke tau mena ua nai; mo e

(ii) ke lata ma e agahala fakamatutaki, fai fakahala tupe foki ke nākai molea e 100 uniti fakahala ma e tau aho takitaha po ke taha vala he aho kua fakamatutaki ai e agahala; po ke

(e) kaeke ko e taha matakau kautaha –

(i) ke totogi e tau tupe nākai molea e 15 000 uniti fakahala; mo e

(ii) ke lata ma e agahala fakamatutaki, fai fakahala tupe foki ke nākai molea e 100 uniti fakahala ma e tau aho takitaha po ke taha vala he aho kua fakamatutaki ai e agahala; mo e

(2) Ko e tagata kua nākai muitua po ke nākai talia ke muitua ke he matakupu 8(2), kua agahala a ia mo e ke fakahala-

(a) ke totogi e tau tupe nākai molea e 500 uniti fakahala po ke nākai molea 2 e tau ke tuku ke he fale puipui, po ke tau mena ua nai; po ke

(b) kaeke ko e taha matakau kautaha ke totogi e tau tupe nākai molea e 1 000 uniti fakahala.

(3) Ko e tagata kua holia ke he foliaga he fakatakatakaimotu po ke nākai muitua ke he matakupu 20(1) kua agahala a ia mo e ke fakahala ke he –

(a) kaeke ko e tagata tokotaha –

(i) ke totogi e tau tupe nākai molea e 5000 uniti fakahala po ke nākai molea 2 e tau ke tuku ke he fale puipui, po ke tau mena ua nai; mo e

(ii) ke lata ma e agahala fakamatutaki, fai fakahala tupe foki ke nākai molea e 500 uniti fakahala ma e tau aho takitaha po ke taha vala he aho kua fakamatutaki ai e agahala; po ke

(b) kaeke ko e taha matakau kautaha –

(i) ke totogi e tau tupe nākai molea e 10 000 uniti fakahala; mo e

(ii) ke lata ma e agahala fakamatutaki, fai fakahala tupe foki ke nākai molea e 1 000 uniti fakahala ma e tau aho takitaha po ke taha vala he aho kua fakamatutaki ai e agahala; mo e

(4) Ko e tagata kua nākai muitua po ke nākai talia ke muitua ke he matakupu 20(2) po ke tau poakiaga mai he ofisa gahua he

takatakaimotu ki lalo hifo he matakupu 40 ke he 43 kua agahala ke totogi e tau tupe nakai molea e 100 uniti fakahala.

(5) Lalafi ki luga ke he ha fakahala kua fakatoka ki lalo hifo he taha vala he matakupu (1) ke he (3), maeke he Fakafilaga ke poaki atu ke he tagata ke totogi e ha tauteaga lagomatai kua taute he Faahi Gahua po ke ha Faahi Gahua foki he Fakatufono po ke ha matakau pule ke fakahagahaga mitaki e tau mena ka tutupu mai hā ko e holia po ke nākai muitua.

(6) Ko e tau agahala fakatauhele e tau agahala nā i lalo:

(a) Ko e agahala he taha vala he matakupu (3) ke lata ma e holia he taha foliaga fakatakatakaimotu ke lata ma e tau leo hohā:

(b) ha agahala foki he Fakatufono Tohi nai ne kua talahau mai fakalā fakatufono ne taute ki lalo hifo he Matakupu 46 ke eke ia mo agahala fakatauhele.

**29 Tau agahala laulahi**

(1) Kua agahala e tagata ka -

(a) nakai tuku atu e fakailoaaga tuga ne kua fakatoka i lalo hifo he fakatufono nai po ke tau la fakatufono takatakaimotu; po ke

(b) foaki atu po ke tuku taha mena fakaohoohoatu ke he taha tagata ne kua fakagahua e tau mata fakatufono mo e tau pule i lalo hifo he fakatufono nai po ke tau la fakatufono takatakaimotu ne liga ke iloa ko e lali ke fakaohooho ke moua e fifiliaga mitaki mai he tagata ia i lalo hifo he fakatufono nai po ke tau la fakatufono takatakaimotu; po ke

(c) nakai muitua ke he tau matakupu ne kua talia ki ai ke he tau fakaholoaga ne kua foaki atu ki lalo hifo he fakatufono nai po ke tau la fakatufono takatakaimotu; po ke

(d) nakai muitua mo e tau matakupu ne kua lilifu mai he Faahi Fakafili ki lalo hifo he fakatufono nai po ke tau la fakatufono takatakaimotu.

(2) Ko e tagata ne kua agahala ke he tau puhala ne kua fakakite he palatafa

(a) ke he (d) na i luga he matakupu (1) kua lata ke -

(a) totogi e tau tupe ke he 100 uniti fakahala; po ke

(b) tuku he fale puipui ke nakai molea e 12 mahina; po ke

(c) uta ua e tau fakahala ne kua fakakite he palatafa (a) mo e (b).

**30 Tau agahala fakatauhele**

(1) kaeke kua fai tuahā kua holia e ia kua lalago ki ai e agahala e fakatauhele fakatakatakaimotu

(a) ke fakaholo ke he pūhala mahani mau ke taute e taha fakamatalaaga ki a ia; po ke

(b) tuku atu taha fakailoaaga tohi ke taatu fakatagata he leoleo e fakailoaaga nai ke he tagta po ke haana a kaina nofo fakahiku po ke

pisinisi.

(2) Kua lata e fakailoaaga fakatauhele ke tohia ke he laupepa pauaki mo e kua lata ke hā i ai e tau mena nai -

(a) fakamatalaaga kua lata ke he agahala fakatauhele kua talahau ai ke fakailoa ke he tagata e magaaho, matakavi mo e fakamaamaaga he agahala; mo e

(b) tau tupe ke totogi ma e fakatauhele; mo e

(c) matakaina ke totogi ki ai e tupe nai;

(d) tau magaaho kua lata ke totogi ai e tupe nai; mo e

(e) fakamatalaaga ke he tonuhia he tagata ke ole ke moua taha fanogonogoaga; mo e

(f) fakamatalaaga ke he tau mena ka tutupu kaeke ke nākai totogi e tupe fakavē mo e nākai ole ke moua taha fanogonogoaga; mo e

(g) he ha koloa

(3) Kaeke kua totogi he tagata e tupe fakatauhele ke he tau magaaho fafati tuga kua hā i ai ki loto he fakailoaaga fakatauhele,-

(a) to nākai fai mena foki ke taute atu ke he tagata; mo e

(b) to nākai fai agahala ke fakamau hifo ke he higoa he tagata.

(4) Kaeke ke nākai totogi he tagata e tupe fakatauhele po ke ole ke taute taha fanogonogoaga ke he tau magaaho kua fafati mai he fakailoaaga fakatauhele, ko e Ulufakatonu ke taute e taha tohi fakamanatu ke taatu ke he tagata ke he laupepa pauaki kua hā I ai e tau talahauaga ne kua tatai po ke teitei tatai mo e fakailoaaga fakatauhele.

(5) Kaeke ke nākai totogi he tagata e tupe fakatauhele po ke taute e ole ke taute taha fanogonogoaga ke he tau magaaho kua fafati mai he fakailoaaga faakatauhele, to fai tauteaga ai ke he tagata ke he tuku atuaga he tohi fakamanatu ke he Fakafiliaga, ti ko e mena ia,-

(a) kua eke tuai e fakailoaaga fakatauhele mo talahauaga ma e agahala fakatauhele; mo e

(b) kua talahau ai kua taute he Fakafiliaga e poakiaga, ke he aho ne taute ai e fakailoaaga fakatauhele, ke totogi e ia kua lalago ki ai e agahala e tau tupe kua tatai mo e tupe fakatauhele fakalataha mo e tau totogi kua fakakite mai ka e nākai fakamau hifo haana a agahala.

(6) Kua taute he tagata e taha ole ke he Faahi Gahua ke fai fakafiliaga, ki lalo hifo he tau magaaho fafati he fakailoaaga fakatauhele po ke fakailoaaga fakamanatu, kaeke kua pihia, ke fakamooli he tagata e fakailoaaga ma e fakafiliaga ke talia po ke nakai talia e liability ti kaeke ke talia e liability, ke fakakite e tau kakano, kaeke kua fai, ko e ha ne kua lata ai he fakafiliaga ke fafati e fakahala tokolalo mai he tupe totogi fakatauhele ke lata ma e agahala.

(7) Ko ia kua agahala he fanogonogoaga ne taute muitua ke he taha vala he matakupu (6) ke totogi e tau tupe kua tatai mo e tupe fakatauhele (a to kehe mai kaeke kua tuku he fakafiliaga e taha totogiaga tokolalo) fakalataha mo e tau tupe fafati ka e nākai fakamau hifo haana a agahala.

(8) Ke puipui aki e fakauaua, kaeke kua taute he tagata e agahala fakaatauhele ti kua taute e tau fakaholoaga mahani mau ki a ia ki lalo hifo he taha vala he matakupu (1)(a) ke nākai totogi he tagata e tupe fakatauhele ka ko e tupe kua fifili ki ai e Fakafiliaga muitua ke he matakupu 26. To nākai fakamau hifo haana a agahala.

**31 Tau lagomatai ma e lauiaaga fakatakatakaimotu**

(1) Maeke he tagata (tagata taute tohi ole) ke taute taha fakaholoaga ke he Fakafiliaga ke moua oti po ke falu he tau fakamagaloaga ne tohi ai he taha vala he matakupu (2) ke he ha tagata foki (ko e tagata kua lago ki ai e agahala) kaeke kua fai kakano ke tuahā kua holia e ia e taha lauiaaga fakatakatakaimotu.

(2) Maeke he Fakafiliaga ke fakagahua oti po ke falu he tau matakupu nā i lalo hagaao ke he fakaholoaga kua taute ki lalo hifo he taha vala he matakupu (1);

(a) poakiaga ke nākai fakahoko e gahua

(b) Tau malona mo e tau mena kua nākai hā i ai hā ko e lauiaaga (ko e lauiaaga);

(c) ko e fakamooliaga ko ia ne lago ki ai e agahala ne taute e lauiaaga;

(d) e poakiaga ke taute e ia kua lago ki ai e agahala e taha fakamolemole ke he tau tagata ma e lauiaaga.

(e) e poakiaga ko e ha fakahikuaga he lauiaaga kua tohia ai ke uta kehe:

(f) e poakiaga ke taute taha tokaaga tupe ke lata ma e tau tupe muka kua moua mai he tau lauiaaga:

(g) e poakiaga ke lata ma e uta keheaga he ha koloa ne taute ai e lauiaaga ki a ia haana e koloa, mo e kua toka ai po ke ke he levekiaga he tagata kua lago ki ai e agahala:

(h) e ha poakiaga foki kua lata e Fakafiliaga ke fakaaoga.

**32 Tau lagomatai ke lata ma e tau lauiaaga fakatakatakaimotu he tau magaaho i mua**

(1) Maeke he tagata **(tagata taute tohi ole)** ke taute taha fakaholoaga ke he Fakafiliaga ke moua oti po ke falu he tau fakahagahaga mitaki ne tohia ai he taha vala he matakupu 2 ke he ha tagata foki **(ko e tagata kua lago ki ai e agahala)** kaeke kua manatu a ia kua lago ki ai e agahala ke holia taha lauiaaga fakatakatakaimotu.

(2) Maeke he Fakafiliaga ke foaki oti po ke falu he tau mena nā i lalo hagaao ia ke he tau fakatokaaga kua taute ki lalo hifo he taha vala he matakupu (1):

(a) poakiaga ke nākai fakahoko e gahua

(b) Tau malona mo e tau mena kua nākai ā i ai hā ko e lauiaaga (ko e lauiaaga);

(c) e poakiaga ko e lauiaaga he tau magaaho i mua ko e lauiaaga fakatakatakaimotu:

(d) e poakiaga ke lata ma e uta keheaga he ha koloa ne taute ai e lauiaaga ki a ia haana e koloa, mo e kua toka ai po ke ke he levekiaga he tagata kua lago ki ai e agahala.

(e) e poakiaga foki kua lata e fakafiliaga ke fakaaoga.

**33 Tau fekau ke mailoga ki ai**

Ko e fifiliaga ko e fakahagahaga mitaki ke foaki ki lalo hifo he matakupu

28(2) po ke 29(2) maeke he Fakafiliaga ke mailoga (ke he lahi mo e hokulo he

tau mena kua tonuhia ki ai) oti po ke falu he tau matakupu nā i lalo:

(a) ko e mailoga nākai po ke kua lata ke mailoga he tagata kua lago ki ai e agahala, ko e tauteaga, po ke nākai taute po ke nākai talia ke taute kua eke ia po ke to eke ia mo lauiaaga fakatakatakaimotu.

(b) ke lauia fēfēe e moui haana kua lago ki ai e agahala hā ko e lauiaaga fakatakatakaimotu po ke tau magaaho i mua:

(c) ha tauteaga he tagata kua lago ki ai e agahala ke tukutukuhifo aki e mamafa he lauiaaga po ke lauiaaga he tau magaaho i mua:

(d) ha tupe ke totogi po ke ha hagahaga kelea ne liga kua fakafitā ki ai he magaaho ne tauteute ai e tau talahauaga ke he fekau:

(e) ha tupe ke totogi po ke ha hagahaga kelea ke fakaoti po ke liu ki tua aki e ha fakahikuaga he lauiaaga po ke lauiaaga he tau magaaho i mua:

(f) kua fai tauteaga foki nakai e ha faahi ne kua taute ke fakahagahaga mitaki aki e fekau.

**34 Falu agahala foki ke lata mo e tau lauiaaga fakatakatakaimotu**

(1) Maeke he Fakafiliaga Lahi ha Niue ke lalafi atu ke he falu fakalaha foki ne kua foaki i lalo hifo he fakatufono nai mo e fai manatu ke he agahala mo e tau mena ne tutupu he magaaho he agahala ai, ke fifili —

(a) ke fakaata e Fakatufono, tau tagata nonofo he matakavi ia po ke ha tagata ne kua lauia ha ko e agahala ne kua tupu mo e tau malona he takatakaimotu po ke tau malolo tino:

(b) ke liuaki atu e tau mena ne kua malona ke he haana a tuaaga

fakamua:

(c) ke fakafoou e takatakaimotu ne kua lauia mo e totogi he tagata po ke matakau ne kua agahala ki ai:

(d) ke he tagata po ke matakau ne kua agahala ke totogi atu ke he tau matakau ne kua lauia he agahala, e tau tupe katoa po ke vala tupe ha ko e tau gahua ne kua taut eke fakapuipui ha kua nakai taute e tau gahua tonu asi agahala:

(e) ke he tagata ne agahala ke fakaoti e gahua ne kua tauten eke lauia ke he agahala kua matutaki atu po ke tumau ke taute:

(f) fakakite atu ke he tagata ne agahala ke taute e tau gahua ne kau poaki he Fakafiliaga ko e tau gahua mitaki ke lata mo e tuli he lekua po ke kalo kehe mai he tau mena keleane lauia e takatakaimotu ha kua agahala ai:

(g) fakakite atu ke he tagata ne agahala ke totogi e tau tupe ke he Faahi Gahua po ke Fakafiliaga ke maeke ke muitua ke he tau fifiliaga ne kua taute i lalo he matakupu nai:

(h) fakakite e utakeheaga he tau koloa tuga e tau matini, tau vakalele po ke tau motoka ne fakaaoga ke taute aki e agahala:

(i) poaki atu ke he tagata ne kua agahala ke muitua ke he tau fifiliaga ne kua lata mo e agahala ne talia he Fakafiliaga kua tonu mo e hako, ka e uta ke he tau mena ne kua taute he magaaho ia.

(2) Ka pehe kua fakahala e tagata ne kua agahala i lalo he matafakatufono nai, maeke he Fakafiliaga ke tuku age ki ai, he magaaho ne taute e fifiliaga, ke totogi tupe ke he tagata ne kua molona e tau koloa ha ko e lekua ne kua tupu ke fakahagahaga mitaki aki.

(3) Ka nakai totogi e tau tupe ne kua talia i lalo he matakupu (1) mo e (2) ke he magaaho kua fafati ki ai, to fai fifiliaga mai he Fakafiliaga ke fakahala aki e tagata tuga ni kua fita he taute he Fakafiliaga.

(4) Maeke he Fakafiliaga ke lalafi atu falu fakahala foki ke he tau fakahala i lalo hifo he matafakatufono nai tuga e tau tupe totogi ke lata mo e tau aho takitaha ne kua matutaki atu e agahala ne kua taute ato talitonu e tagata ke he tau matafakatufono.]

**35 Tau fakahala gahua ke he maaga**

(1) Magaaho ka fakahala ai e taha tagata, maeke he matakau talagi fakahala ke tuku ke he Fakafiliaga e fakaholoaga ke lata mo e fakahala gahua ke he maaga mo e ataina ke taute pihia.

(2) Maeke he Fakafiliaga ke fakahala e tagata ke gahua ke he maaga ka e nakai totogi tupe, po ke lalafi atu ke he fakahala totogi tupe.

(3) Maeke he Fakafiliaga ke poaki atu ke he tagata ne kua fakahala he gahua ke he maaga ke taute e tau gahua i lalo hifo he tau levekiaga he taha matakau po ke fakapotopotoaga mo e taute e tau gahua hagaao ke he takatakaimotu.

(4) Maeke he Fakafiliaga ke fafati ko e Ulu Fakatonu, Leoleo po ke ha tagata ke he ka leveki e fakahala gahua ke he maaga.]

**36 Falu a tonuhiaaga gahua mo e tau lagomataiaga**

Nākai lauia e ha tonuhiaaga gahua po ke falu a lagomataiaga hā ko e Vala nai, pete kua fakakolokolovao po ke fakatagata ne kua tohia ai ke he falu a matafakatufono po ke tau fakatufono tohi.

## Vala 4
## Fakagahuaaga

*Faahi Gahua Takatakaimotu*

**37 Ke fakatumau e Faahi Gahua Takatakaimotu**

Kua fakatumau agaia e Faahi Gahua Takatakaimotu ne fakatū he matakupu 5 he Fakatufono Tohi 2003.

**38 Tau gahua he Faahi Gahua**

(1) Ko e tau gahua he Faahi Gahua hanai –

(a) ke fakagahua mo e fakaholo e Fakatufono Tohi nai:

(b) ke fakagahua mo e fakaholo e ha matafakatufono foki he ha vala he ha matafakatufono kua tonuhia ki ai e Faahi Gahua, fakalataha mo e Fakatufono Tohi Tau Manu Nonofovao 1972 mo e Fakatufono Tohi Vai 2012:

(c) ke lagomatai e Fakatufono Niue ke tālaga –

(i) e tau hagaaoaga fakatakatakaimotu mo e tau koloa fakaholo gahua; mo e

(ii) tau fakavēaga mo e tau fakatufono fakatakatakaimotu

(d) ke tālaga mo e fakaholo, fakalataha mo e falu a faahi gahua, e tau fakaholoaga gahua ke lata ma e –

(i) taha fakaholoaga gahua fakatakatakaimotu mo e fakaholoaga ma e tau koloa fakatufugatia; mo e

(ii) tau liu kitekiteaga ke he tau lekua fakatakatakaimotu; mo e

(iii) fakaholoaga ma e tau kiva; mo e

(iv) levekiaga he tau kiva; mo e

(v) puipuiaga he tufugatia; mo e

(vi) levekiaga he tau matakavi agamotu mo e tupu fakaholo; mo e

(vii) tau pūhala ke fakafelau aki e hikihikiaga he matagi fakalataha mo e tau fakaholoaga kua fai matutakiaga ke hemo e tau matematekelea fakatufugatia; mo e

(viii) puipuiaga mo e fakaaogaaga he tau moko moui kua fakakehe:

(e) ke lagaki hake e tau mailogaaga fakatakatakaimotu, taute e tau fakatātāaga he tau talahaauaga ma e tau tagata, mo e lagaki hake mo e taute e tau fakaakoaga fakatakatakaimotu:

(f) ke liu kitekite ke he tau fakatufono tohi (fakalataha mo e Fakatufono Tohi nai) mo e, kaeke kua lata, ke pulega e tau fakahui mo e tau lā fakatufono:

(g) ke muitua mo e fakamooli e tau fakatufono mo e tau fakavēaga fakatakatakaimotu:

(h) ke kitekite e tālagaaga he tau fakavēaga mo e tau fakaholoaga auloa hagaao ia ke he tau fekau fakatakatakaimotu mo e tau takitaki he tau tagata mo e tau matakau mai i fafo he fakatufono, mo e taute e tau hātakiaga, fakatātā mo e lagomatai ke he fakagahuaaga he tau fakavēaga mo e tau fakaholoaga gahua ia:

(i) ke lagaki hake e tau fakaakoaga he takatakaimotu ke he tau kumikumiaga, tau totouaga, tau fakaputuputuaga mo e fakamaopoopoaga he tau talahauaga:

(j) ke taute e tau fakaakoaga fakatakatakaimotu mo e tau hokotaki:

(k) ke lagaki hake e putoiaaga he tau tagata ke he tau fifiliaga he tau manatu fakatakatakaimotu:

(l) ke fakaohooho mo e lagomatai e tau lotomatala, tau mena foou mo e tau pulotu ke he tau aga mo e tau mahani fakamotu kua hātaki e tau puipuiaga, tau fakamitakiaga mo e tau fakaholoagaa he takatakaimotu:

(m) ke takitaki e muituaaga mo e mo e fakagahuaaga he tau maveheaga kehekehe ke he takatakaimotu:

(n) ke taute e tau gahua oti kua pūhala mai he Fakatufono Tohi nai.

(2) ke lata ma e fakagahuaaga he tau gahua ne fakamahino mai he taha vala he matakupu (1), haia he Faahi Gahua e tau malolō ia.

(3) ke kalo mai mo e fakauaua, ko e magaaho ka fakagahua ai e tau gahua ki lalo he taha vala he matakupu (1), kua lata he Faahi Gahua ke –

(a) fakagahua e fakavēaga laulahi he Fakatufono hagaao ia ke he puipuiaga mo e levekiaga he takatakaimotu ha Niue: mo e

(b) muitua ke he ha poakiaga fakavēaga kua taute he Fono Ikipule ne kua nākai felauaki mo e Fakatufono Tohi nai po ke ha matafakatufono foki.

**39 Falu a gahua atu foki he Faahi Gahua ma e tau maveheaga fakalalolagi**

(1) Hā i ai foki ke he Faahi Gahua e tau gahua nai –

(a) gahua ke fakatutala mo e fakamatutaki mo e falu a faahi gahua mo e tau eisini he fakatufono ke kitia –

(i) e tau maveheaga takatakaimotu kua fakamooli ki ai (MEAs) e matakau he lalolagi kua lata a Niue ke matutaki atu ki; mo e

(ii) tau gahua ha Niue kaeke kua matutaki atu ke he tau maveheaga ia po ke MEAs; mo e

(b) hagaao ke he tau maveheaga takatakaimotu he lalolagi kua matutaki a Niue ki ai, ko e tau gahua nā i lalo:

(i) ke mailoga e aoga he tau hukui ha Niue ke he tau fono he tau motu kua putoia ke he tau maveheaga ia mo e falu a fonoaga foki:

(ii) ke matutaki mo e falu a matakau fakaatumotu mo e fakalalolagi ke mailoga kua mafola e tau gahua oti ha Niue ki lalo hifo he tau maveheaga mo e MEAs:

(iii) ke fakaholo mo e kaufakalataha ke he tau matagahua kua hagaao ke fakagahua e falu matakupu he tau maveheaga ia mo e MEAs:

(iv) ke tufatufa e tau talahauaga ke he tau matapatu fekau he tau maveheaga ia mo e taute e tau mailogaaga ke he tau tagata ke he tau fakatokatokaaga he tau maveheaga ia mo e MEAs:

(v) ke fakamaopoopo e tau hokotaki oti kua lata mo e fakamatutaki atu ke he Ikipule hagaao ke he fakagahuaaga he tau maveheaga ia mo e MEAs:

(vi) ke fetautuiaki e tau talahauaga mo e taute e tau maopoopoaga kua manako ki ai e tau maveheaga ia mo e MEAs:

(vii) ke pulega e tau fakatufono kua lata ke huhui po ke fakamooli ke maeke ke fakagahua fakamitaki ee tau maveheaga takatakaimotu ia mo e MEAs:

(viii)gahua fakalataha mo e tau faahi gahua he fakatufono mo e tau takitaki he tau tagata ke fakagahua e tau gahua ki lalo hifo he tau fakavēaga ia mo e MEAs.

(2) Ma e tau hagaaoaga ke taute e tau gahua kua tohia he taha vala he matakupu (1) haia he Faahi Gahua e tau malolō oti kua lata.

(3) Nākai fakakaupā he taha vala he matakupu (1) e tau gahua, tau malolō mo e tūaga he ha faahi gahua foki po ke ha takitaki he tau tagata hagaao ia ke he ha maveheaga takatakaimotu fakalalolagi.

**40 Kau gahua he Faahi Gahua**

(1) Hā i ai ke he Faahi Gahua e Ulufakatonu mo e tau ofisa gahua oti kua lata ke fakagahua aki e Fakatufono Tohi nai, kua kotofa ai he Kau Pule Gahua he Fakatufono.

(2) Ko e tau gahua he Ukufakatonu ke –

(a) fakaholo e fakagahuaaga he Fakatufono Tohi nai; mo e

(b) kitekite e holo mitaki, gahua mitaki mo e tau fakaholoaga tupe he Faahi Gahua; mo e

(c) fakatoka mo e fakafoou e tau matapatu gahua he Faahi Gahua; mo e

(d) foaki e tau hātakiaga ke he tau tagata ke lata a ia ke tuku atu ki ai e tau fekau ke he takatakaimotu mo e tau gahua he Faahi Gahua; mo e

(e) taute e tau gahua oti kua lata ke fakagahua mo e fakaholo fakamitaki aki e tau gahua ia.

**41 Malolō he Ulufakatonu ke foaki e tau gahua**

(1) Maeke he Ulufakatonu ke foaki falu he haana a tau malolō gahua (putoia ai e malolō ke taute e falu he haana a tau gahua) ke he falu –

(a) a ofisa he Faahi Gahua po ke ha tagata gahua he faahi gahua he fakatufono; po ke

(b) takitaki he tau tagata.

(2) Nākai foaki he Ulufakatonu haana a tau malolō gahua ke foaki atu foki.

**42 Hokotaki lagataha he tau**

(1) A to hoko e aho 31 Masi he tau tau takitaha, kua lata he Ulufakatonu ke tuku atu e taha hokotaki tohi ke he Ikipule hagaao ke he tau gahua he Faahi Gahua he tau kua mole atu.

(2) Kua lata he Ikipule ke tuku atu e hokotaki nai ke he Fono Ekepule ka liu ke fono foki.

**43 Puipuiaga ke lata mo e tagata gahua**

Ko e Ulu fakatonu, tau ofisa takatakaimotu mo e tau tagata gahua he Faahi Gahua kua puipui a lautolu mai he fakahala ha ko e tau gahua ne taute fakamooli ki lalo hifo he matafakatufono nai po ke tau lā fakatufono takatakaimotu.

*Tau ofisa takatakaimotu*

**44 Fifiliaga he tau ofisa takatakaimotu**

(1) Maeke he Kau Pule Gahua he Fakatufono, ke he pūhala tohi ke fifili 1 po ke loga e ofisa gahua takatakaimotu.

(2) Lalafi atu foki, maeke e Kau Pule Gahua, ke he pūhala tohi, ke he tagata tokotaha, ke kotofa e falu he tau ofisa gahua takatakaimotu nā i lalo ke eke mo tau ofisa gahua takatakaimotu ke taute e tau gahua he ofisa gahua takatakaimotu tuga kua fakamahino mai he fakailoaaga:

(a) tau leoleo

(b) tau ofisa faahi puipui moko

(c) tau ofisa oko tukuhau

(d) tau ofisa futi ika

(e) tau tagata tivi mo e kitekite mai he faahi malolō tino

(f) falu a ofisa gahua kua gahua ke he fakatufono.

(g) ko e ha tagata ni kua kitia he Faahi Gahua Komisina kua lata tonu ke fakagahua mo e maeke ke taute mo e kautu e tau gahua ka tuku atu kia ia.

**45 Fakamailogaaga he tau ofisa takatakaimotu**

(1) Kua lata he Ulufakatonu ke foaki age ke he tau ofisa gahua takatakaimotu takitaha ne kua kotofa ki lalo hifo he matakupu 38(1) po ke 38(2) e taha kalapepa fakamailoga.

(2) Kaeke kua lata ke taute pihia, kua lata he ofisa takatakaimotu ke fakakite haana a kalapepa fakamailoga –

(a) ke he tau magaaho takitaha a to gahua ai ki lalo hifo he fakatufono Tohi nai; mo e

(b) he ha magaaho kua manako ai ke taute pihia mai he taha tagata kua lauia he magaaho kua gahua ai e ofisa ki lalo hifo he fakatufono tohi nai.

(3) Kua lata tonu nī ma e tau hagaaoaga ke muitua mo e taha vala he matakupu (2) kaeke kua kotofa e ofisa gahua takatakaimotu ki lalo hifo he(a) ke he (f) matakupu 38(2) ke fakakite e ha

kalapepa fakamailoga kua toka ai ke lata ma e haana a matapatu kotofaaga kua tohia ai he matakupu ia -

(a) ka kua lata ke fakamooli muitua ke he kotofaaga he ofisa gahua ki lalo hifo he Fakatufono Tohi nai po ke

(b) maeke he ofisa ke fakakite ke he falu a pūhala foki kua gahua fakamatafakatufono a ia ko e ofisa takatakaimotu.

**46 Tau malolō he tau ofisa takatakaimotu ke taute e tau tiviaga**

(1) Maeke he ofisa takatakaimotu ke tivi e ha matakavi (ka e nākai ko e kaina nofo) kaeke kua fai tuahā a ia kua –

(a) ko e tau mena kua lata ke taute, kua taute tuai po ke kua amaamanaki ke taute he matakavi ia hā ko e lauiaaga he Fakatufono Tohi nai; po ke

(b) hā i ai ke he matakaavi ia e taha mena ke kitia aki e lauiaaga he Fakatufono Tohi nai (pete kua katoatoa po ke fai talahauaga hā kua nākai fai fakamooliaga po ke laisini kua lata (ha pūhala nī kua fakamatafeiga aki).

(2) Ka fai tohi ole ke moua e talia kua fita he taute kae nakai la fai fifiliaga i lalo hifo he matafakatufono nai po ke tau la fakatufono takatakaimotu kua maeke he he ofisa takatakaimotu ke tivi e matakavi ne kua tuahā ko e amanaki ke fai tauteaga i ai.

(3) Ko e tagata haana e matakavi po ke tagata kua nofo ai he magaaaho kua taute po ke aamanaki ke taute haana a malolō tivi ki lalo hifo he Fakatufono Tohi nai po ke ha Fakatufono Tohi foki –

(a) ke tuku age ke he ofisa –

(e) nākai lata ke fai fakaatautonu po ke ha talahauaga (ke he pūhala tali ke he hūhū po ke ha mena nī) ne kua liga ke fakakelea aki a ia

(4) Fakamua to lata e tagata ke fai tali ke he tau hūhū po ke fai fakatautonu po ke fai talahauaga, kua lata he ofisa gahua ke talaage ke he tagata haana a tau tonuhia ki lalo hifo he taha vala he matakupu (3)(e).

(i) e tau lagomatai oti ke maeke he ofisa gahua ke taute haana a malolō gahua; mo e

(ii) e tau talahauaga oti hagaao ke he tauteaga he malolō gahua kua manako ki ai e ofisa gahua; ka e

(5) Fakamua to hūhū ke he tagata ke tali e tau hūhū po ke tali atu poke tau fakailoaga, kua lata he ofisa takatakaimotu ke fakailoa ke he tagata haana, taane po ke fifine e tau tonuhia i lalo hifo he vala kupu (4)(b).

**47 Tau fakamooliaga mo e tau taliaaga ke taute e tau tiviaga**

(1) Ko e tau fakamooliaga po ke tau taliaaga oti kua foaki ki lalo hifo he Fakatufono Tohi nai po ke tau lā fakatufono ne tuku age e tonuhia ke he ha ofisa takatakaimotu ke tivi e ha matakavi kua hagaao ki ai e fakamooliaga po ke taliaaga (ka e nākai ko e kaina nofo) kaeke kua iloa kua fai gahua kua taute ke he matakavi ia hā ko e lauiiaga he Fakatufono Tohi.

(2) Ko e malolō ke tivi ne foaki ki lalo hifo he taha vala he matakupu (1) kua putoia fakalataha ai mo e matakupu 40, ti nākai lauia po ke fakakaupā e tau mena ia.

**48 Malolō he tau ofisa takatakaimotu ke taofi mo e uta kehe e tau koloa fakamooli**

(1) Maeke he ofisa takatakaimotu ke uta kehe e ha koloa (ko e koloa ne uta kehe) ka e nākai fai tohi fakaatā ke veu e kaina mai he Fakafiliaga kaeke –

(a) tuku age e koloa

(i) ne uta kehe ke he Ofisa; po ke

(ii) kua maeke ke kitia maali ai he magaaho ka taute ai e tivi ne taute ki lalo hifo he Fakatufono Tohi nai po ke ha Fakatufono Tohi foki; mo e

(2) Kua lata e ofisa takatakaimotu ke –

(a) taute falu a tauteaga ke –

(i) talaage ke he tagata haana e koloa e tau kakano (po ke tagata kua toka ai e koloa) ne uta kehe ai; mo e

(ii) tuku age ke he tagata haana e koloa e taha fakamooliaga (receipt) ke lata ma e koloa kua uta kehe; mo e

(b) tuku ke he taha tokaaga mitaki e koloa ne kua uta kehe; mo e

(c) taute e koloa kua uta kehe ke he pūhala kua tatai tuga nī kua uta kehe ki lalo hifo he pule tonuhia he tohi fakaatā ke veu e kaina ki lalo hifo he taha vala he matakupu 284 he Fakatufono Tohi ha Niue 1966.

**49 Malolō he tau ofisa takatakaimotu ke taofi mo e uta kehe falu a vahega veve**

(1) Maeke he ofisa takatakaimotu, ka e nakai fai poakiaga mai he fakafiliaga po ke fai tohi ke veu e kaina, ke taofi po ke uta kehe mai he taha fonua auloa po ke fonua tagata e ha koloa kua tohia ai he taha vala he matakupu (2) kaeke kua fai tuahā e Ulufakatonu ko e koloa –

(a) Kua tiaki; mo e

(b) Kua nākai maeke ke fakaaoga ke he haana a fakaaogaaga pauaki.

(2) Ko e tau koloa kua talahau mai he taha vala he vala (1) ko e ha peleō, ha koloa, ha koloa toho peleōafi, ha lapa setalate, ha lapa hila laā, ha fua kese, whiteware po ke ha koloa komopiuta.

(3) Maeke he Ulufakatonu ke tiaki e ha koloa kua uta kehe ki lalo hifo he matakupu nai ke he puhala kua kitia e ia kua lata tonu mo e ke nākai fai fakatautonu ke moua he ha tagata ma e koloa.

(4) Ki lalo he vala nai -

**Tau koloa komopiuta** hagaao ke he ha komopiuta, ha lapa komopiuta, ha masini fakafanau lagaki, ha tīvī po ke ha koloa komopiuta

**Tau koloa hila** hagaao ke he tau lapa kaitunu, tau filisa, tau masini unu po ke tau umu fakamafana kai.

**50 Ko e malolo ke fakagahua ke he Tohi Gahua**

(1) Ko e Ofisa Gahua Takatakaimotu kua nakai maeke a ia ke hū atu ke he kaina ha ko e tau kakano ne tohia ai he Matakupu 40 ke he 43, a to fai kehe ai ni ka –

(a) fakagofua ke he tohi mai he tagata he kaina po koi a ne nofo ai he kaina; po ke

(e) i lalo hifo he pule ke he Tohi Ole kua foaki ai ha ko e poaki mai he Matakupu nei ha Tohi Ole mai he Ofisa Gahua.

(2) Ke lata ma e falu a vahega foki, to liga maeke he Ofisa Takataki Motu ke tohi ole aia ke moua e Tohi Gahua i lalo hifo he Matakupu nei kaeke kua talitonu e Ofisa ko e Ofisa liga nakai maeke ke fakaaoga e ha malolo i lalo hifo he Matakupu 40 ke he 43 mo e nakai fai Tohi Gahua, fakatai pehe ha kua –

(a) nakai fai tagata ne nofo ai ke foaki age e ataina ke he fale kua loka po ke kaeke kua nakai fai hala ke hu atu ki ai; po ke

(b) kua nakai talia he tagata ke hu atu e Ofisa Gahua ke he kaina po ke kua fai kakano lahi m oe talitonu ko e tagata to nakai talia e ia e Ofisa ke hu atu ki ai, po ke

(c) kua puipui he tagata e Ofisa ke fakagahua e tau malolo ia, po ke

(d) kua fai kakano uho kua talitonu ko e fakaohooho he Ofisa ke fakagahuahua falu he tau malolo mo e nakai moua e Tohi Gahua to liga kua moumou e kakano he tau malolo ne toka ai po ke fakalavelave mo e totoko atu ki ai.

(3) Ko e taha Ofisa mai he Fakafiliaga liga to maeke a ia ke taute e poakiaga mo e foaki atu e Tohi Gahua i lalo hifo he Matakupu nei kaeke kua talia e ia e fakamooliaga he tohi muitua ai ke he

omonuoaga he Ofisa Takatakaimotu ko e Tohi Gahua kua lata ke moua muitua ke he puipui (1) po ke (2), kaeke kua pihia e tauteaga ia.

(4) Ko e Tohi Gahua i lalo hifo he matakupu nei to liga fakaatā e Ofisa Takatakaimotu ke fakagahua e malolō i lalo hifo he Matakupu 40 ke he 4, 46 ke he 49 mo e kua fakamahino mai he Tohi Gahua, mo e ko e Tohi Gahua ia to pa mo e fakaoti mai ai he 14 e aho tali mai he aho ne foaki age ai ka e kehe ai ni kaeke kua fakaloa atu he Ofisa Fakafili e magaaho ke nakai molea e 14 e aho.

(5) I lalo he Matakupu nei, ko e **Ofisa Fakafili** kakano ko ia ko e Iki Fakafili he Hopo Tokoluga po ke, kaeke ko e Iki Fakafili kua nakai nofo a ia i Niue, ko e Komisina he Fakafiliaga Tokoluga po ke 2 e Iki Fakafili he Mafola.

## Vala 5
## Tau tupe totogi mo e ke liu totogi atu

**51 Maeke he Fono Ikipule ke fatifati e tau tupe totogi**

(1) Liga to maeke he Fono Ikipule ke fakamahino mai e tau tukuhau falanaka ni ke he puhala totogi ma e tau koloa hagahagakelea kua tamai ai ki Niue, po ke ha puhala ni ne kua fakagahua aki e tau koloa hagahagakelea ia ke moua -

(a) kua fakakelea po ke maeke ke fakakelea fakalahi aki e takatakaimotu

he magaaho ka eke ai mo veve; po ke

(b) ke lata ia kaeke kua fai mitaki ue atu ki Niue ha ko e tukutuku hifo, liu fakaaoga, liu tavili po ke liu moua mai he tau koloa.

(2) Ko e tau koloa nai kua lata e tau tupe ke totogi atu ki ai ke tohia fakamahino.

(3) Ke totogi e tupe nai ke he Faahi Gahua Tamai mo e Uta Koloa mai he Motu ka e ki luga he ha tupe totogi kua lata ke totogi ki lalo hifo he Fakatufono Tohi Tau Koloa Tamai mo e Uta Kehe mai he Motu 1966.

(4) Ko e Faahi Gahua Tanaki Tupe ha Niue ke toka kehe e tau tupe totogi ki lalo hifo he matakupu nai ke maeke he tau tupe nai ke kitia mitaki.

(5) Ko e tau tupe ne moua ki lalo hifo he taha vala he matakupu (1) ke toka kehe ke he taha fakaputuaga tupe he Fakatufono he Faahi Gahua Tanaki Tupe ha Niue –

**52 Tau tupe totogi ke lata mo e tau koloa fakaaoga**

(1) Ke lata mo e levekiaga po ke fakahagahaga mitaki he takatakaimotu ha Niue, maeke he Fono Ikipule ke tauteute –

(a) e tau totogi ke lata mo e tau koloa kua liu fakaaofaused items for which a refund may be given; and

(b) katoatoa he tau tupe totogi; mo e

(c) tau fakatokatokaaga ke fakahagahaga mitaki a to maeke e koloa ke moua mai taha tupe (fakatai pehē, ke fakameā fakamua e koloa mo e taatu ai ke he taha matakavi pauaki)

(2) Ko e tau lā fakatufono ne tauteute ke lata mo e hagaaoaga he matakupu nai kua toka ke he Ulufakatonu ke fakatonutonu po ke fakahakohako ke he haana kitiaaga.

## Vala 6
## Falu matakupu foki

**53 Tau lā fakatufono**

(1) Maeke he Fono Ikipule ke taute e tau lā fakatufono ma e tau hagaaoaga he Fakatufono Tohi nai.

(2) Mua atu, ke taute e tau lā fakatufono ke lata ma e tau hagaaoaga oti po ke falu he tau hagaaoaga nā i lalo:

(a) tauteute he puhala ke moua aki e fakamooliaga atihake ke lata mo e fakaataaga ke he taha matagahua;

(b) tohia ai e tau fakavēaga he fuafuaaga he tau mena kua fakalauia aki e takatakaimotu ma e tau gahua takitaha, putoia ai e –

(i) tau talahauaga ki loto he fuafuaaga mo e

(ii) tau magaaho kua lata ke fakaaoga ua e fuafuaaga he kamataaga mo e fuafuaaga katoatoa; mo e

(iii) ko ia ke taute e fuafuaaga:

(c) tauteute ai e tau laupepa ke fakaaoga ma e tau hagaaoaga he Fakatufono Tohi nai:

(d) ko e tau fakamahino mai ke totogi tupe to totogi ai muitua ne ke he tau totogi i lalo hifo he Mata Fakatufono Tohi nai, mo e ko e Faahi Gahua ke totogi mai he tagata ne taute Tupe Ole ke lata ia mo e totogi kua lata ai o e fuafuaaga ke lata ai mo e tau mena kua tohia ai ki looto he Togi Ole.

(e) fakamooli e tau agahala he Fakatufono Tohi nai kua hā i ai e tau agahala fakatauhele:

(f) tauteute e tau totogi fakatauhele nākai molea e 5 e uniti fakahala ma e tau agahala nai (ne kua maeke ke pehē ko e tau tupe ke lata ma e tau agahala kehekehe, fakalataha mo e tau tupe totogi ke lata ma e agahala fakamua, ke ua aki mo e falu a agahala atu foki):

(g) tauteute e tau fekau hagaao ke he kitiaaga, fakaholoaga mo e puipuiaga he tau moko momoui kua fakakehe:

(h) taute ke lata ma e falu a fekau foki kua fakatokatoka he Fakatufono Tohi nai kua tonuhia ma e fakagahuaaga katoatoa po ke kua lata ma e haana a gahuahuaaga mitaki.

(3) Maeke he tau lā fakatufono ne kua tālaga ki lalo hifo he matakupu nai ke tauteute e tau fakahala ma e agahala ne kua holia ke he tau tupe nākai molea e 500 uniti fakahala.

(4) Muitua e taha vala he matakupu (3) ke he taha vala he matakupu (2) (f).

**54 Totogi he Kautaha**

(1) Kaeke ke nakai muitua e Kautaha ke he Matakupu he Fakatufono Tohi nai, ko e ha tagata ni kua eke mo Ulu Fakatonu he kautaha po ke koi a ne takitaki ke he kautaha, kua nakai fakamooli mo e muitua ia ke he Matakupu ia, ka e kehe ai ni ka pehe ko e tagata kua talia he Fakafiliaga e tagata ia -

(a) kua nakai fai, moua po ke ha i ai e lotomatala mitaki he kaumahala he kautaha ke muitua ke he matakupu nei; po ke

(b) kua nakai mau tauteute a ia ke lata ia mo e puhala gahua he kautaha ha kua nakai fakamooli mo e muitua ai ke he matakupu nei, po ke, haia he tuaga ia, mo e fakaaoga ai e tau puhala tonu ke puipui aki e kaumahala ke muitua kia ai e kautaha ia.

(2) Kaeke ke nakai muitua e kautaha ke he Matakupu he Fakatufono Tohi naiu, ko e tau tagata takitaha nei ne Takitaki e kautaha po ke koi a ne takitaki atu ke ke he kautaha liga to lago ni ke he fakahala kua muitua po ke nakai muitua e kautaha po ke kua nakai fakahala e kautaha.

(3) Ko e lago agaia ni e kautaha ke he ha agahala kua taute ai ko e muitua po ke nakai he tau Ulu Fakatufono po ko lautolu kia takitaki atu ke he Kautaha.

**55 Lauia e Kautaha ke he ha Ulumoumou**

Ko e ha kautaha ni ka taute ha agahala ki lalo hifo he Fakatufono Tohi nai, ha agahala po ke ha mena taha ke lauia ai e kautaha nei, tuga e taute taha foliage ke he tau puipuiaga po ke ha mena ni kua toka ai he tau puipuiaga ma e ulumoumou ke he kautaha ia.

**56 Tau Utakeheaga**

(1) Ko e Fakatufono Tohi 2003 (Environment Act 2003) ke uta kehe.

(2) Ko e Fakatufono Tohi ma e Puipuiaga he tau mena momoui oti 2006 mo e La Fakatufono Puipui he tau Aolagi 2007 kua matutaki ai ke tuga ni kua ha ha i ai ki lalo hifo he Fakatufono Tohi nai mo e to maeke ai ke fakahui po ke utakehe ai muitua ni ke he Fakatufono Tohi nai.

57 **Tau Fakahuiaga Mahuiga ma e Fakatufono tohi ke lata ia ma e ai 2012**

(1) Ko e matakupu nei kua fakahui ai e Fakatufono Tohi ke lata ia ma e Vai 2012.

(2) Ko e Matakupu 2(1) kua fakahui aim o e tuku ai e fakaveaga fakamatatohi ai: ko e fakailoaaga ma e agahala fakalavelave kakano ko e fakailoaaga agahala ke he Komisina kua fai agahala kua holia ai ko e agahala kua holia ai kakano ko e agahala ai ke he Fakatufono Tohi nai po ke la Fakatufono kua taute ai i lalo hifo he Fakatufono Tohi nai kua tohia ai ko e agahala kua holia muitua ai ke he Fakatufono Tohi nai.

(3) Matakupu 30(2) kua fakahui ai e tau kupu nai "fakaaogaaga he vai ma e ha gahua, puotia ai e ke lata ia mo e ka mole atu e matakau ne fakagahua e vai.

(4) Matakupu 42 kua fakahui ai o e tuku ai e puipui nei he mole e puipui (2):

"(3) Ko ia ne toka ai e laiseni he puipuiaga he vai to liga lauia ia he fakahala ke he tukuhau he gahua muitua ai ke he laiseni mo e to liga lauia ai foki e totogi i loto he La Faktufono ne tohia ai he Fakatufono Tohi nai".

(5) Kua utakehe tuai e Matakupu 54 mo e tuku ai e Matakupu nei –

"**54 Ko e tau agahala kua holia**

"(1) Kaeke kua agahala e tagata ha kua taute e ia taha agahala kua holia, ko e tagata ia liga to –

"(a) lauia tuai a ia ke he tauteaga kua mahani ai ke he tau fakailoaaga kua lauia e tagata ia; po ke

"(b) kua moua e ia e fakailoaaga ma e agahala kua holia mai he leoleo po ke lagaki he fakailoaaga kua moua e ia ke he matakavi fakahiku ne nofo ai a ia po ke haana pisinisi.

"(2) Ko e fakailoaaga ma e agahala kua holia kua lata ke tohia ai ke he pepa pauaki mo e tohia ai pehe nei –

"(a) tau fakailoaaga laulahi ke lata mo e agahala kua holia ke fakailoa fakamitaki ke he tagata ke he magaaho, matakavi mo e tupumaiaga he agahala; mo e

"(b) e tupe ke totogi aki e agahala kua holia; mo e

"(c) ko e matakavi ne nofo ai ke totogi ki ai e tupe he agahala kua holia; mo e

"(d) e magaaho kua fakakaupā ke totogi ai e agahala kua holia; mo e

"(e) kua moue he tagata e tonuhia ke ole atu ke liu fakanogonogo; mo e

"(f) ko e heigoa e men aka tupu mai kaeke kua nakai totogi he tagata e tupe ia mo e nakai ole atu ke liu fakanogonogo foki; mo e

"(g) ko e falu a tau fakailoaaga ni ka tohia fakamahino mai.

"(3) Kaeke kua totogi he tagata e tupe ma e agahala kua holia ke he magaaho tonu ia kua tohia ai he fakailoaaga ma e agahala kua holia e ia, -

"(a) nakai fai mena foki ke lauaia e tagata; mo e

"(b) nakai fai fakahala ke lauia e tagata ma e agahala haana.

"(4) Kaeke ke nakai totogi he tagata e tupe ma e agahala kua holia po ke ole ke liu fakanogonogo ke he magaaho kua fafati ai ki loto he fakailoaaga ko e Ulu Fakatonu kua lata ke fakamanatu age e ia ke he tagata ke he taha tohi pauaki, po ke fakailoaaga ne o tatai ni mo e fakailoaaga ke lata mo e agahala kua holia.

"(5) Kaeke ke nakai totogi he tagata e tupe ma e agahala kua holia e ia, po ke ole ke fakanogonogo he magaaho ne kua fafati ai he fakailoaaga ke fakamanatu mai he Fakafiliaga mo e, ke lata mo e tauteaga ia, -

"(a) kua lata he fakailoaaga fakamanatu ia ke taute ni e tau fakailoaaga ke lata mo e agahala kua holia; mo e

"(b) ko e Fakafiliaga kua taute tuai e poakiaga, ke lata ma e aho ne kua liu fakamanatu ai e fakailoaga kua toka, kua totogi ai he tagata e fakahala ke tatai ni mo e tupe kua fafati kia ai, ka e nakai fai fakahala ke lata mo e tagata.

"(6) Ole he tagata ke liu fakanogonogo ai ke he Ulu Fakatonu, ke he magaaho kua fafati mai he fakailoaaga ma e agahala kua holia po ke fakailoaaga fakamanatu age, kua lata ke taute pihia ai, ko e fakailoaaga, kua fakamooli he tagata e ole ke fakanogonogo mo e talia po ke nakai talia e fakahala, tau kakano, kaeke kua fai, ko e ha e Fakafiliaga ne tuku ai e fakahala tokolalo mai he tupe ma e agahala kua holia ma e fakahala.

"(7) Ko e tagata kua fakamooli e ia haana agahala ke liu fakanogonogo ke lata ia mo e puipui (6) kua agahala ia ke he fakahala tatai ni mo e tupe ke totogi ma e agahala kua holia (ka e kehe ai ni kaeke kua tuku ke Fakafiliaga e totogi tokolalo hifo) fakalataha mo e totogi i loto he tupe kua fafati pauaki ai, ka e nakai fai fakahala kua tuku ai ke lata mo e tagata'.

"(8) Ke nakai moua e tuahā, kaeke kua lauia e tagata he agahala kua holia mo e fai tauteaga ai ke lata mo e tagata i lalo hifo he puipui (1)(a), kua nakai lata he tagata ke totogi e tupe ma e agahala kua holia ka ko e tupe ne kua fafati ai he Fakafiliaga muitua ai ke he Matakupu 52. Ka e pete ia, Makai fai fakahala ke lauia ai e tagata".

(6) Ko e Matakupu 66 kua fakahui aim o e utakehe e palatafa © ka e hukui aki e tau palatafa nei –

"(c) fakailoa ai ko e ha e fē tau fakahala ne totoko atu ke he Fakatufono Tohi nei po ke tau la Fakatufono kua taute ai i lalo hifo he Fakatufono Tohi ke lata mo e agahala kua holia;

"(cc) ko e tupe ke lata mo e agahala kua holia kua fakamahino mai ko e nakai molea e lima e uniti ke lata mo e tau agahala kua holia (ka e liga ko e ke he mai e tupe ia ke lata mo e agahala kehe, lauia e totogi tupe ke lata mo e fakamua, uaaki mo e falu a fakahala foki):"

58 **Tau Hikihikiaga ke lata mo e tau Matafakatufono Vala Tahi mo e Futi Iika ha Niue**

Ko e vala nei ke hiki e lā Matafakatufono Vala Tahi mo e Futi Ika ha Niue.

Ko e vala 2(1) kua hiki ke putoia e fakapapahiaga:

"**fakailoaaga ke lata mo e agahala fakatauhele** kakano ko e fakamooli ne kua foaki muitua ke he tau holiaaga la matafakatufono

"**agahala fakatauhele** kakano ko e holiaaga matafakatufono tohi kua lalago ki ai e agahala fakatauhele fakatakatakaimotu

Ko e vala nai ke putoia e matakupu 24 –

**"24A Tau agahala fakatauhele**

(1) kaeke kua fai tuahā kua holia e ia kua lalago ki ai e agahala e fakatauhele fakatakatakaimotu

(a) ke fakaholo ke he pūhala mahani mau ke taute e taha fakamatalaaga ki a ia; po ke

(b) tuku atu taha fakailoaaga tohi ke taatu fakatagata he leoleo e fakailoaaga nai ke he tagta po ke haana a kaina nofo fakahiku po ke pisinisi.

(2) Kua lata e fakailoaaga fakatauhele ke tohia ke he laupepa pauaki mo e kua lata ke hā i ai e tau mena nai –

(a) fakamatalaaga kua lata ke he agahala fakatauhele kua talahau ai ke fakailoa ke he tagata e magaaho, matakavi mo e fakamaamaaga he agahala; mo e

(b) tau tupe ke totogi ma e fakatauhele; mo e

(c) matakaina ke totogi ki ai e tupe nai;

(d) tau magaaho kua lata ke totogi ai e tupe nai; mo e

(e) fakamatalaaga ke he tonuhia he tagata ke ole ke moua taha fanogonogoaga; mo e

(f) fakamatalaaga ke he tau mena ka tutupu kaeke ke nākai totogi e tupe fakavē mo e nākai ole ke moua taha fanogonogoaga; mo e

(g) he ha koloa

(3) Kaeke kua totogi he tagata e tupe fakatauhele ke he tau magaaho fafati tuga kua hā I ai ki loto he fakailoaaga fakatauhele,-

(a) to nākai fai mena foki ke taute atu ke he tagata; mo e

(b) to nākai fai agahala ke fakamau hifo ke he higoa he tagata.

(4) Kaeke ke nākai totogi he tagata e tupe fakatauhele po ke ole ke taute taha fanogonogoaga ke he tau magaaho kua fafati mai he fakailoaaga fakatauhele, ko e Ulufakatonu ke taute e taha tohi fakamanatu ke taatu ke he tagata ke he laupepa pauaki kua hā I ai e tau talahauaga ne kua tatai po ke teitei tatai mo e fakailoaaga fakatauhele.

(5) Kaeke ke nākai totogi he tagata e tupe fakatauhele po ke taute e ole ke taute taha fanogonogoaga ke he tau magaaho kua fafati mai he fakailoaaga faakatauhele, to fai tauteaga ai ke he tagata ke he tuku atuaga he tohi fakamanatu ke he Fakafiliaga, ti ko e mena ia,-

(a) kua eke tuai e fakailoaaga fakatauhele mo talahauaga ma e agahala fakatauhele; mo e

(b) kua talahau ai kua taute he Fakafiliaga e poakiaga, ke he aho ne taute ai e fakailoaaga fakatauhele, ke totogi e ia kua lalago ki ai e agahala e tau tupe kua tatai mo e tupe fakatauhele fakalataha mo e tau totogi kua fakakite mai ka e nākai fakamau hifo haana a agahala.

(6) Kua taute he tagata e taha ole ke he Faahi Gahua ke fai fakafiliaga, ki lalo hifo he tau magaaho fafati he fakailoaaga fakatauhele po ke fakailoaaga fakamanatu, kaeke kua pihia, ke fakamooli he tagata e fakailoaaga ma e fakafiliaga ke talia po ke nakai talia e liability ti kaeke ke talia e liability, ke fakakite e tau kakano, kaeke kua fai, ko e ha ne kua lata ai he fakafiliaga ke

fafati e fakahala tokolalo mai he tupe totogi fakatauhele ke lata ma e agahala.

(7) Ko ia kua agahala he fanogonogoaga ne taute muitua ke he taha vala he matakupu (6) ke totogi e tau tupe kua tatai mo e tupe fakatauhele (a to kehe mai kaeke kua tuku he fakafiliaga e taha totogiaga tokolalo) fakalataha mo e tau tupe fafati ka e nākai fakamau hifo haana a agahala.

(8) Ke puipui aki e fakauaua, kaeke kua taute he tagata e agahala fakaatauhele ti kua taute e tau fakaholoaga mahani mau ki a ia ki lalo hifo he taha vala he matakupu (1)(a) ke nākai totogi he tagata e tupe fakatauhele ka ko e tupe kua fifili ki ai e Fakafiliaga muitua ke he matakupu 26. To nākai fakamau hifo haana a agahala.

Ko e vala nai ke putoia e matakupu 28 ko e hikiaga ke putoia e matakupu (2):

"(2) Ko e lā fakatufono, to nakai fai fakakaupaaga –

"(a) tauteute e tau totogi fakatauhele nākai molea e 5 e uniti fakahala ma e tau agahala nai (ne kua maeke ke pehē ko e tau tupe ke lata ma e tau agahala kehekehe, fakalataha mo e tau tupe totogi ke lata ma e agahala fakamua, ke ua aki mo e falu a agahala atu foki):

"(b) fakamooli e tau agahala he Fakatufono Tohi nai kua hā i ai e tau agahala fakatauhele:

"(c)tohia e tau totogi ma e tau agahala kua holia (ko e tau totogi tupe ma e tau agahala kehekehe, lauia ai e tau totogi kehekehe fakamua, uaaki, po ke falu agahala ka mui mai ai) mo e nakai molea e tokolalo hifo he tau totogi nai-

(i) 5 e uniti fakahala;

(ii) Maeke he tau lā fakatufono ne kua tālaga ki lalo hifo he matakupu nai ke tauteute e tau fakahala ma e agahala ne kua holia ke he tau tupe nākai molea.

**59 Tau Hikihikiaga ke lata mo e tau Matafakatufono Vala Tahi ha Niue**

(1) Ko e vala nei ke hiki e lā Matafakatufono Vala Tahi ha Niue.

Ko e vala 2(1) kua hiki ke putoia e fakapapahiaga:

"fakailoaaga ke lata mo e agahala fakatauhele kakano ko e fakamooli ne kua foaki muitua ke he tau la matafakatufono

"agahala fakatauhele kakano ko e holiaaga matafakatufono tohi kua lalago ki ai e agahala e fakatauhele fakatakatakaimotu

Ko e mataulu he vala 10 kua hiki ke putoia "MO E AGAHALA FAKATAUHELE" kua lalafi he mole atu e kupu "TONUHIA KE FAKAHALA".

Ko e vala nai ke putoia e matakupu 59 –

**"59A Tau agahala fakatauhele**

(1) kaeke kua fai tuahā kua holia e ia kua lalago ki ai e agahala e fakatauhele fakatakatakaimotu

(a) ke fakaholo ke he pūhala mahani mau ke taute e taha fakamatalaaga ki a ia; po ke

(b) tuku atu taha fakailoaaga tohi ke taatu fakatagata he leoleo e fakailoaaga nai ke he tagta po ke haana a kaina nofo fakahiku po ke pisinisi.

(2) Kua lata e fakailoaaga fakatauhele ke tohia ke he laupepa pauaki mo e kua lata ke hā i ai e tau mena nai –

(a) fakamatalaaga kua lata ke he agahala fakatauhele kua talahau ai ke fakailoa ke he tagata e magaaho, matakavi mo e fakamaamaaga he agahala; mo e

(b) tau tupe ke totogi ma e fakatauhele; mo e

(c) matakaina ke totogi ki ai e tupe nai;

(d) tau magaaho kua lata ke totogi ai e tupe nai; mo e

(e) fakamatalaaga ke he tonuhia he tagata ke ole ke moua taha fanogonogoaga; mo e

(f) fakamatalaaga ke he tau mena ka tutupu kaeke ke nākai totogi e tupe fakavē mo e nākai ole ke moua taha fanogonogoaga; mo e

(g) he ha koloa

(3) Kaeke kua totogi he tagata e tupe fakatauhele ke he tau magaaho fafati tuga kua hā i ai ki loto he fakailoaaga fakatauhele,-

(a) to nākai fai mena foki ke taute atu ke he tagata; mo e

(b) to nākai fai agahala ke fakamau hifo ke he higoa he tagata.

(4) Kaeke ke nākai totogi he tagata e tupe fakatauhele po ke ole ke taute taha fanogonogoaga ke he tau magaaho kua fafati mai he fakailoaaga fakatauhele, ko e Ulufakatonu ke taute e taha tohi fakamanatu ke taatu ke he tagata ke he laupepa pauaki kua hā I ai e tau talahauaga ne kua tatai po ke teitei tatai mo e fakailoaaga fakatauhele.

(5) Kaeke ke nākai totogi he tagata e tupe fakatauhele po ke taute e ole ke taute taha fanogonogoaga ke he tau magaaho kua fafati mai he fakailoaaga faakatauhele, to fai tauteaga ai ke he tagata ke he tuku atuaga he tohi fakamanatu ke he Fakafiliaga, ti ko e mena ia,-

(a) kua eke tuai e fakailoaaga fakatauhele mo talahauaga ma e agahala fakatauhele; mo e

(b) kua talahau ai kua taute he Fakafiliaga e poakiaga, ke he aho ne taute ai e fakailoaaga fakatauhele, ke totogi e ia kua lalago ki ai e agahala e tau tupe kua tatai mo e tupe fakatauhele fakalataha mo e tau totogi kua fakakite mai ka e nākai fakamau hifo haana a agahala.

(6) Kua taute he tagata e taha ole ke he Faahi Gahua ke fai fakafiliaga, ki lalo hifo he tau magaaho fafati he fakailoaaga fakatauhele po ke fakailoaaga fakamanatu, kaeke kua pihia, ke fakamooli he tagata e fakailoaaga ma e fakafiliaga ke talia po ke nakai talia e liability ti kaeke ke talia e liability, ke fakakite e tau kakano, kaeke kua fai, ko e ha ne kua lata ai he fakafiliaga ke fafati e fakahala tokolalo mai he tupe totogi fakatauhele ke lata ma e agahala.

(7) Ko ia kua agahala he fanogonogoaga ne taute muitua ke he taha vala he matakupu (6) ke totogi e tau tupe kua tatai mo e tupe fakatauhele (a to kehe mai kaeke kua tuku he fakafiliaga e taha totogiaga tokolalo) fakalataha mo e tau tupe fafati ka e nākai fakamau hifo haana a agahala.

(8) Ke puipui aki e fakauaua, kaeke kua taute he tagata e agahala fakaatauhele ti kua taute e tau fakaholoaga mahani mau ki a ia ki lalo hifo he taha vala he matakupu (1)(a) ke nākai totogi he tagata e tupe fakatauhele ka ko e tupe kua fifili ki ai e Fakafiliaga muitua ke he matakupu 26. To nākai fakamau hifo haana a agahala.

Ko e vala nai ke putoia e matakupu 60 ko e hikiaga ke putoia e matakupu (2):

"(3) Ko e lā fakatufono, to nakai fai fakakaupaaga –

"(a) tauteute e tau totogi fakatauhele ke lata ia mae Fakatufono Tohi nai, po ke kakano ko e tau tupe totogi po ke totogi ke lata ai mo e Fakatufono Tohi nai to lafilafi ai po ke fakamooli ai:

(b) talaga e tau agahala ke lata ia mo e moumouaga he tau La Fakatufono mo e tohia e tau totogi he agahala ke nakai molea e lima e iuniti ma e agahala ia:

(c ) fakailoa ko e tau agahala fe kua totoko mai ke he Fakatufono Tohi nai po ke tau La Fakatufono kua tohia i lalo hifo he Fakatufono Tohi nai:

(d) tohia e tau totogi ma e tau agahala fakatauhele (ne kua liga to kehe mai e totogi ma e tau agahala kehekehe, lauia ai e tau totogi kehekehe fakamua, uaaki, po ke tau agahala ka mumui mai ai) ke nakai mole e tote hifo he totogi nai-

(i) 5 e uniti fakahala;

(ii) ko e totogi kua gata mai ni he tupe fafati I loto he Fakatufono Tohi nai( lauia ai e agahala i lalo hifo he Fakatufono Tohi nai kua fakailoa ai ko e agahala fakalavelave)."

**60 Matutakiaga ke gahua**

Ko e tau tagata gahua he Faahi Gahua ne gahua fakamua to fakagahua e Fakatufono Tohi nai, kua lauia a lautolu ke he tau matakupu 35 mo e 38 mo e kua lata nī ke muitua ke he tau fakatokatokaaga toka tuai he tau tohi gahua ha lautolu.

Ko au ko, TOGIAVALU PIHIGIA, ko e Fakatonu Fono he Fono Ekepule ha Niue, kua fakamooli mo e muitua ko e tau fakavēaga he Matakupu 34 he Tohi Fakavē ha Niue.

**FAKAMOOLI MO E FAKAMAILOGA** he Fale Fono he Aho 29 he mahina Oketopa 2015.

Fakatonu Fono he Fono Ekepule ha Niue

**FAKAMOOLI FOKI** ki mua he Fakatonufono

Tohi Kupu he Fono Ekepule a Niue

Ko e Faahi Gahua Takatakaimotu ke fakagahua e Fakatufono Tohi nai.
Kua fakamooli ai he Fono Ekepule ha Niue e Fakatufono Tohi nai he Aho 28 he mahina Sepetema 2015.