

**NIUE LAWS**

**TAU FAKATUFONO-TOHI A NIUE**

**LEGISLATION AS AT DECEMBER 2006**

**VOLUME 4**

**TOHI 4**

**SUBSIDIARY LEGISLATION**

**GOVERNMENT OF NIUE, ALOFI**  
**2006**

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# CONSTITUTION

## NIUE ASSEMBLY STANDING ORDERS

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## PART 1

### INTRODUCTION

#### 1 Purpose

(1) These Standing Orders contain rules for the conduct of proceedings in the Niue Assembly and for the exercise of powers possessed by the Assembly.

(2) They are not intended to diminish or restrict the Assembly's rights, privileges, immunities and powers.

#### 2 The rights, privileges, immunities and powers of the Assembly

[See article 24 of the Constitution]

#### 3 Speaker to interpret Standing Orders

(1) The Speaker (or other person presiding) is responsible for ruling whenever any question arises as to the interpretation or application of a Standing Order and for deciding cases not otherwise provided for.

(2) In all cases the Speaker will be guided by previous Speakers' rulings and by the established practices of the Assembly.

#### 4 Dress

(1) Members are expected to attend meetings of the Assembly attired in a manner appropriate to the dignity of the Assembly.

(2) In particular men are expected to wear a coat and tie to attend a meeting of the Assembly.

(3) The Speaker may exclude from a meeting of the Assembly a member or any other person in the Assembly Chamber during a meeting of the Assembly whom the Speaker does not consider to be suitably attired.

#### 5 Smoking

(1) Members and other persons present during a meeting of the Assembly are not permitted to smoke in the Assembly Chamber.

(2) The Speaker must direct a member or any other person who is smoking in the Assembly Chamber during a meeting of the Assembly to stop smoking or to leave the Chamber.

**6 Speaker may order member to withdraw if grossly disorderly**

(1) The Speaker may order a member whose conduct is grossly disorderly to withdraw immediately from the Assembly during the remainder of that day's sitting.

(2) The Speaker may request a constable to assist in removing a member ordered to withdraw from the Assembly.

PART 2  
DEFINITIONS

**7 Definitions**

- (1) In these Standing Orders –  
 “absolute majority” at a meeting of the Niue Assembly, means an absolute majority of the members present and voting at that meeting;  
 “Clerk” means the Clerk of the Niue Assembly and includes a person for the time being performing the duties of the Clerk;  
 “meeting” means a sitting or sittings of the Assembly commencing when the Assembly first meets after being summoned at any time and terminating when the Assembly is adjourned –  
 (a) Until an indefinite time; or  
 (b) At the conclusion of a session;  
 “Paper” means a document which is ordinarily laid on the Table of the Assembly at the time for “Presentation of Papers”;  
 “written” and “in writing” means written by hand, typewritten, duplicated, or printed, or partly one or more of the others, and includes a communication transmitted in facsimile or otherwise electronically.
- (2) Words and phrases defined by article 82 of the Constitution and used in these Standing Orders have the same meaning in these Standing Orders as they do in the Constitution.
- (3) The notes included in these Standing Orders do not form part of the Standing Orders.
- (4) These Standing Orders are to be interpreted as if they were an Act.

PART 3  
THE SPEAKER

**8 Election of the Speaker**

- If at the first meeting of the Assembly after a general election –  
 (a) The person presently holding the office of Speaker is not present,  
 or  
 (b) The office of Speaker is vacant,  
 the Clerk shall preside at the meeting until a Speaker is elected.  
 [See article 20(4) and (7) of the Constitution]

**9 Qualifications required to be elected Speaker**

[See article 20(2) and (3) of the Constitution]

**10 Speaker to be elected by absolute majority**

- (1) The following procedure must be followed to elect the Speaker by an absolute majority at a meeting of the Assembly –  
 (a) Any member may, on members being called upon to do so by the person presiding at the meeting, nominate an eligible person for election as the Speaker if that person's consent in writing to being nominated is produced;

- (b) No question is proposed on the election of the Speaker and no debate may arise in connection with it;
  - (c) If only one person is nominated for election as the Speaker the person presiding at the meeting must declare that person to be elected as the Speaker;
  - (d) If 2 people are nominated for election as the Speaker –
    - (i) A secret vote must be taken, and
    - (ii) If one person obtains more votes than the other the person presiding at the meeting must declare that person to be elected as the Speaker but if each receives the same number of votes the person presiding at the meeting must again call for nominations;
  - (e) If more than 2 people are nominated for election as the Speaker –
    - (i) A secret vote must be taken;
    - (ii) If a person receives the votes of an absolute majority of the members the person presiding at the meeting must declare that person to be elected as the Speaker;
    - (iii) If no person receives the votes of an absolute majority of the members the candidate with the fewest number of votes is eliminated and a secret vote must again be taken;
    - (iv) The procedure must be repeated until a person receives the votes of an absolute majority of the members;
    - (v) If there are 2 candidates and each receive the same number of votes the person presiding at the meeting must again call for nominations and the whole election must be held again;
  - (f) If under paragraph (e)(iii) more than one candidate has the fewest number of votes the vote must be taken again;
  - (g) If after the vote is retaken more than one candidate has the fewest number of votes the person presiding at the meeting must determine by lot which candidate is to be eliminated;
  - (h) If –
    - (i) There are no new nominations when nominations are called for under paragraph (d) (ii); or
    - (ii) An election held under paragraph (e)(v) again results in 2 candidates receiving the same number of votes, the person presiding at the meeting must determine by lot which candidate is to be the Speaker.
- (2) For the purpose of paragraph (1) a secret vote is to be held by –
- (a) Each member writing on a piece of paper provided to the member by the Clerk the name of the candidate for whom the member is voting and handing the paper to the Clerk when requested to do so by the Clerk; and
  - (b) Unless the Clerk is presiding at the meeting, the Clerk reporting the result of the election to the person presiding at the meeting; and
  - (c) The person presiding at the meeting announcing to the meeting the number of votes received by each candidate; and
  - (d) The Clerk then destroying the papers received from the members.
- [See article 20(1) of the Constitution]

**11 Speaker to take oath**  
[See article 20(5) of the Constitution]

**12 Vacation of office of Speaker**  
[See article 20(6) of the Constitution]

**13 Presiding at meetings**  
[See article 22(2) of the Constitution]

**14 Absence of Speaker**  
If at a meeting of the Assembly –  
(a) The Speaker is absent; or  
(b) The office of Speaker is vacant, the Clerk shall, for the purpose of allowing the Assembly to comply with article 20(7) of the Constitution, preside at the meeting until –  
(i) The members present have elected one of their number to preside over the meeting until the Speaker is again present; or  
(ii) A Speaker is elected and has entered on the duties of his or her office,

as the case may be.

**15 Members to address the Speaker correctly**  
A member must address the Speaker as “Mr Speaker” or “Madam Speaker”, as the case may be, during a sitting of the Assembly.

#### PART 4

##### OATH OF ALLEGIANCE

**16 Oath of Allegiance to be taken by members.**  
[See article 20 of the Constitution]

#### PART 5

##### THE PREMIER

**17 Election of Premier**  
[See article 4 of the Constitution]

**18 Premier to be elected by absolute majority**  
(1) The following procedure must be followed to elect the Premier by an absolute majority at a meeting of the Assembly –  
(a) Any member may, on members being called upon to do so by the Speaker, nominate another member for election as the Premier;  
(b) No question is proposed on the election of the Premier and no debate may arise in connection with it;  
(c) If only one member is nominated for election as the Premier the Speaker must declare that member to be elected as the Premier;  
(d) If 2 members are nominated for election as the Premier –  
(i) A secret vote must be taken;  
(ii) If one member obtains more votes than the other the Speaker must declare that member to be elected as the Premier but if each receive the same number of votes the Speaker must again call for nominations;

- (e) If more than 2 members are nominated for election as the Premier –
  - (i) A secret vote must be taken;
  - (ii) If a member receives the votes of an absolute majority of the members the Speaker must declare that member to be elected as the Premier;
  - (iii) If no member receives the votes of an absolute majority of the members the candidate with the fewest number of votes is eliminated and a secret vote must again be taken;
  - (iv) The procedure must be repeated until a member receives the votes of an absolute majority of the members;
  - (v) If there are 2 candidates and each receives the same number of votes the Speaker must again call for nominations and the whole election must be held again;
- (f) If under paragraph (e)(iii) more than one candidate has the fewest number of votes the vote must be taken again;
- (g) If after the vote is retaken more than one candidate has the fewest number of votes the Speaker must determine by lot which candidate is to be eliminated;
- (h) If –
  - (i) There are no new nominations when nominations are called for under paragraph (d)(ii); or
  - (ii) An election held under paragraph (e)(v) again results in 2 candidates receiving the same number of votes, the Speaker must determine by lot which candidate is to be the Premier.
- (2) For the purpose of paragraph (1) a secret vote is to be held by –
  - (a) Each member writing on a piece of paper provided to the member by the Clerk the name of the candidate for whom the member is voting and handing the paper to the Clerk when requested to do so by the Clerk; and
  - (b) The Clerk reporting the result of the election to the Speaker; and
  - (c) The Speaker announcing to the meeting the number of votes received by each candidate; and
  - (d) The Clerk then destroying the papers received from the members.

[Absolute majority means that if there are 20 members present and voting a candidate must receive at least 11 votes to be elected, not just the most votes.]

## PART 6

### APPOINTMENT OF MINISTERS

#### 19 **Appointment of Ministers by the Premier**

[See article 5 of the Constitution]

#### 20 **Each Minister must take Oath of Allegiance**

[See article 10 of the Constitution]

## PART 7

### LANGUAGE THAT MAY BE USED IN THE ASSEMBLY

#### 21 **Language**

[See article 23 of the Constitution]

## PART 8

## SEATING OF MEMBERS

**22 Seating of members**

(1) For the first meeting of the Assembly after a general election the Clerk must allocate a seat in the Assembly Chamber to each member in alphabetical order of each member's family name starting to the right of the Speaker's chair.

(2) After the Speaker has appointed the Premier and the 3 other Ministers they must occupy the seats immediately facing the Speaker's chair.

(3) The seats of the other members must be determined by each member drawing a seat number from a container.

(4) The Speaker must determine any question that may arise with regard to the seat to be occupied by a member.

(5) A member must not address the Assembly (through the Speaker) except from the member's seat.

## PART 9

## MEETINGS OF THE ASSEMBLY

**23 Speaker to appoint time and place of meetings of the Assembly**

[See article 22(1) of the Constitution]

**24 Members to attend sittings of the Assembly**

A member must attend each sitting of the Assembly unless granted leave of absence by the Speaker.

**25 Grounds for granting leave of absence**

The Speaker must not grant a member leave of absence except on the following grounds –

(a) For illness or other family cause of a personal nature; or

(b) To enable the member to attend to other public business (whether in Niue or overseas).

**26 Sittings**

(1) The Assembly sits on such days as are appointed by the Speaker.

(2) Unless the Assembly decides otherwise each sitting is to be from 9am to 12 noon and from 1pm to 4pm.

(3) At 5 minutes before the appointed time to end a sitting the Speaker must interrupt the business under discussion.

(4) Unless the Assembly otherwise decides, an adjournment of a sitting of the Assembly is to the next working day.

(5) The Speaker may suspend a sitting at any time.

**27 No Sunday sitting**

The Assembly must not sit on a Sunday.

**28 Notice of meetings**

(1) The Clerk must give each member at least 5 working days written notice of the commencement of a meeting of the Assembly.

(2) In an emergency the Speaker may summon a meeting of the Assembly on such shorter notice as the circumstances require.

(3) If paragraph (2) applies notice of the meeting must be given to each member in a way that will ensure the member is duly informed of the meeting.



**29 Quorum of meetings of the Assembly**

(1) If at any time a quorum is not present the Speaker must direct each member then present in the Fale Fono to be advised of the lack of a quorum.

(2) If at the end of 10 minutes a quorum is not present the Speaker must adjourn the sitting without question put.

[See articles 22(6) and 20(9) of the Constitution]

**30 Meeting to start with Prayer**

Upon the Speaker taking the Chair each day and a quorum of members being present the Speaker must call upon a member to say a Prayer.

**31 Broadcasting**

(1) The proceedings of the Assembly may be broadcast on radio or television with the approval of the Speaker, which may be given subject to conditions.

(2) A broadcast of the televised proceedings of the Assembly must maintain such standards of fairness as are adopted, from time to time, by the Assembly.

PART 10  
STRANGERS

**32 Speaker controls admission**

The Speaker –

(a) May control admission to the Chamber of the Assembly and its lobbies and galleries; and

(b) May issue rules setting out who may be admitted to those areas and governing their conduct there.

**33 Strangers may be ordered to withdraw**

(1) A member may move, without notice, “That strangers be ordered to withdraw”.

(2) The Speaker must put the question without any amendment to or debate on the question.

**34 Effect of order that strangers withdraw**

(1) If the Assembly resolves that strangers be ordered to withdraw –

(a) All strangers must leave the galleries; and

(b) All members of the press gallery must leave; and

(c) Official reporters and attendants must leave the Chamber and no official report of the proceedings is to be made; and

(d) Broadcasting of debates is to cease.

(2) The Clerk must make a note of proceedings for the Journals of the House.

**35 Strangers interrupting proceedings**

The Speaker may require strangers who interrupt proceedings or who otherwise misconduct themselves, to leave the galleries and the precincts of the Assembly Chamber.

## PART 11

## DUTIES OF THE CLERK

**36 Appointment of Clerk of the Assembly**

[See article 27 of the Constitution]

**37 Business Paper**

The Clerk must at least 5 working days before the start of a meeting of the Assembly send to each member a Business Paper setting out the business proposed to be carried out by the Assembly during that meeting of the Assembly.

**38 Order Paper**

(1) The Clerk must give to each member before the start of a meeting a paper (known as the Order Paper) setting out –

- (a) The business proposed to be carried out by the Assembly during that meeting; and
- (b) The order in which it is intended to carry out that business.

(2) In general the business of the Assembly must be carried out in the following order –

- (a) Presentation of petitions;
- (b) Tabling of papers;
- (c) Consideration of papers;
- (d) Questions for oral answers;
- (e) Government business;
- (f) Member's business.

(3) The Speaker may amend the Order Paper.

**39 Custody of records**

(1) The Clerk has the custody of the records and other documents belonging to the Assembly.

(2) The records and other documents belonging to the Assembly –

- (a) Must be made available by the Clerk upon request by a member; and
- (b) May be made available by the Clerk to any other person with the permission of the Speaker.

**40 Minutes**

(1) The Clerk must –

- (a) Keep minutes of the proceedings of the Assembly; and
- (b) Send to each member a copy of the minutes of each meeting as soon as possible after the conclusion of the meeting.

(2) The Clerk must record in the minutes of a meeting of the Assembly –

- (a) The name of each member attending the meeting; and
- (b) The decisions made by the Assembly during the meeting.

(3) The minutes must be signed by the Speaker and countersigned by the Clerk.

**41 Record of members**

(1) The Clerk must keep a record in respect of each member.

(2) The record kept in respect of a member must include –

- (a) The name of the member; and
- (b) The date of his or her election; and
- (c) The date the member took his or her seat; and
- (d) On the member ceasing to be a member, the date and cause.



**42 Official report**

(1) An official report (known as Hansard) is to be made by the Clerk of those portions of the proceedings of the Assembly as is determined by the Assembly or by the Speaker.

(2) The report is to be in such form and subject to such rules as are approved from time to time by the Assembly or by the Speaker.

(3) The report must be published by the Clerk.

## PART 12

## PAPERS

**43 Presentation of Papers**

A Paper may be laid upon the Table of the Assembly when the Speaker calls for the "Presentation of Papers".

**44 Who may present Papers**

(1) A Paper may be laid on the Table of the Assembly by –

(a) The Speaker; or

(b) A Minister; or

(c) The Chairman of a Select Committee.

(2) Otherwise a member has no power to lay a Paper on the Table of the Assembly unless authorised to do so by a resolution of the Assembly.

**45 Presentation of Papers**

(1) The person in charge of a Paper may lay the Paper on the Table of the Assembly without motion.

(2) A person who has laid a Paper on the Table of the Assembly may make a short statement in respect of the Paper.

(3) The Speaker must not allow a debate on the statement.

(4) A Paper laid on the Table of the Assembly must be recorded as so laid in the minutes of the meeting.

**46 Consideration of Papers**

(1) When a Paper has been laid on the Table of the Assembly the Clerk must put it on the Business Paper for the next meeting of the Assembly.

(2) When "Consideration of Papers" is called on the Speaker must call the title of each Paper in the order in which it appears on the Order Paper.

(3) If a member wants to debate a Paper the member may, on the Paper being called on by the Speaker, move "That the Paper be noted" or "That the Paper be referred to the Government for consideration" or some other motion relevant to the Paper.

(4) If a motion is not made in respect of a Paper called on by the Speaker for consideration the Clerk must omit mention of the Paper from subsequent Order Papers.

## PART 13

## PETITIONS

**47 Petitions**

(1) A member may present a Petition to the Assembly if –

(a) It is made on a form provided for the purpose by the Clerk; and

(b) Each signature on the Petition is in the handwriting of the person signing or, in the case of mark, it is witnessed; and

- (c) Each signature or mark is followed by the name and address of the person signing or making the mark; and
  - (d) The petition is in the Niuean or English language; and
  - (e) The petition is accompanied by a translation into the Niuean or English language, as the case may be, certified as correct by the Member who is to present the Petition.
- (2) A Petition must not have any other document attached to it.

#### **48 Presentation of Petition**

When a member presents a Petition to the Assembly the member must confine himself or herself to a brief statement of –

- (a) A description of the group or people who signed the petition; and
- (b) The number of signatures attached to it; and
- (c) The general object of the Petitioner or Petitioners.

#### **49 Disposal of Petition**

(1) A member who has presented a Petition to the Assembly may then move “That the petition be read” or “That the petition be referred to a Select Committee”.

(2) In moving such a motion the member must give his or her reason for doing so.

#### **50 Petition on matter having judicial remedy**

A member must not present a Petition to the Assembly in respect of matter for which there is a judicial remedy if no application for that remedy has been made.

### **PART 14**

#### **QUESTIONS AND ANSWERS**

#### **51 Questions**

(1) A member may through the Speaker ask a question relating to a Bill, motion or other public matter connected with the business of the Assembly during the period set aside by the Assembly for questions and answers.

(2) The time allowed for questions, and answers in the Assembly shall be limited to 1 hour.

#### **52 Notice of questions**

(1) A question must not be asked without notice unless the Speaker is satisfied that –

- (a) It is of an urgent character; and
- (b) Relates either to a matter of public importance or to the arrangement of the business of the Assembly.

(2) A Member must give written notice of a question to the Clerk at least 3 working days before the day on which the answer is required.

(3) The questions in the Assembly at any one sitting shall be limited to 20 in number and shall be the first 20 questions received by the Office of the Speaker by closing day, on a first come first served basis.

(4) Each question must be worded in the form of a single question and must not include introductions or explanations.

(5) Questions will be distributed to Ministers no fewer than 3 working days before the day on which the answer is required and will be listed in the Order Paper on that day.

**53 Answers to questions**

(1) The Speaker must not allow debate on a question that has been asked and answered.

(2) As soon as a question has been answered in the Assembly the member who asked the question may without notice, ask no more than 2 supplementary questions.

(3) The Speaker must not permit a supplementary question to be asked that introduces a matter not included in the original question.

(4) Each supplementary question must be worded in a form as a single question and must not include introductions or explanations.

## PART 15

## MOTIONS AND AMENDMENTS

**54 Notice of motions**

(1) Except as provided in paragraph (2) a member who wants to move a motion in the Assembly must give notice of the motion the member proposes to move by giving a written copy of the motion to the Clerk at least 5 working days before the start of the meeting during which the member intends to move the motion.

(2) A member may move a motion without giving prior notice to the Clerk if it is a motion –

- (a) By way of amendment to a question already proposed; or
- (b) For the adjournment of the Assembly or of a debate; or
- (c) Raising a question of privilege; or
- (d) That a petition be read or referred to a Select Committee; or
- (e) That a Bill be referred to a Select Committee; or
- (f) That relates to a Paper called on for consideration; or
- (g) To report progress; or
- (h) For any reading of a Bill; or
- (i) For the withdrawal of a Bill; or
- (j) On a matter the Speaker accepts is urgent; or
- (k) That does not require notice by virtue of any other provision of these Standing Orders.

**55 Form of motion**

(1) A motion must be expressed in a form and with a content appropriate for a resolution of the Assembly.

(2) Accordingly a motion must –

- (a) Clearly indicate the issue to be raised for debate; and
- (b) Include only such material as may be necessary to identify the facts or matter to which the motion relates.

(3) A motion must not contain –

- (a) Unbecoming or offensive expressions or expressions or words which would not be permitted in debate, or
- (b) Statements of fact or the names of persons unless –
  - (i) They are strictly necessary to render the motion intelligible; and
  - (ii) can be authenticated.

**56 Motions and amendments to be seconded**

(1) A motion or amendment, unless made in Committee, must be moved in the affirmative form and seconded.

(2) The mover of a motion or amendment may speak on the principle and merits of the motion or amendment before formally moving the motion or amendment but if it is not then seconded it lapses forthwith.

**57 Motions to amend or replace Standing Orders**

A notice of a motion to amend or replace these Standing Orders must be accompanied by a draft of the proposed amendment or replacement Standing Orders.

**58 Withdrawal of motions and amendments**

(1) A member who has proposed a motion or amendment may withdraw it, but if the motion or amendment has been seconded the member cannot do so except with the approval of the Assembly.

(2) A motion or amendment to which an amendment has been moved cannot be withdrawn until the latter amendment has either been disposed of or withdrawn.

**59 Reintroduction of motions**

A motion cannot be proposed which is the same in substance as a motion that during the previous 12 months has been resolved in the affirmative or negative.

**60 Moving of amendments to motions**

(1) A proposed amendment to a motion cannot be moved until the Speaker has accepted the motion.

(2) The Speaker must not accept a proposed amendment to a motion after the vote on the motion has been taken.

**61 Order of amendments to motions**

When written notice has been given of several proposed amendments to a motion, each proposed amendment is to be dealt with in the order in which, if agreed to, it would stand in the amended motion.

**62 Rules as to amendments to motions**

A proposed amendment to a motion must be relevant to the motion.

**63 Abuse of Standing Orders**

The Speaker may decline to propose the question on a motion for the adjournment of a debate or for the adjournment of the Assembly during a debate if the Speaker is satisfied that the motion –

(a) Is an abuse of these Standing Orders; or

(b) An infringement of the rights of the minority of members.

**PART 16****PERSONAL EXPLANATIONS****64 Personal explanations**

(1) A member may with the leave of the Speaker at the time appointed for Personal Explanations explain matters of a personal nature.

(2) The Speaker must not allow a personal explanation to be debated.

(3) The subject matter of a proposed personal statement must first be communicated to the Speaker.

## PART 17

## RULES OF DEBATE

**65 Members to address the Speaker**

A member must not address the Assembly except through the Speaker.

**66 The Speaker to call upon member to speak**

(1) A member who wishes to speak must raise his or her arm to attract the Speaker's attention.

(2) The Speaker should generally permit members to speak in the order in which they catch the eye of the Speaker.

**67 Speaker to be heard in silence**

When the Speaker is addressing the Assembly –

(a) Any member then speaking must immediately cease speaking; and

(b) All members must remain silent to permit the Speaker to be heard without interruption.

**68 Speech to be directed to the question**

(1) A member must speak to the subject matter under discussion.

(2) The Speaker may –

(a) Call the attention of the Assembly to continued irrelevance or tedious repetition on the part of a member who is at that time speaking; and

(b) Direct the member to discontinue his or her speech.

**69 Member generally to be allowed to speak once**

(1) Except as provided by paragraphs (2) and (4) and during debate on the second reading of a Bill, the Speaker must ensure that a member speaks only once to a question.

(2) The Speaker may allow a member who has spoken to speak again to clear up a misunderstanding in regard to a material point of the member's speech.

(3) In allowing the member to speak again the Speaker must not allow the member to –

(a) Introduce new matter; or

(b) Interrupt a member who is speaking.

(4) The Speaker may allow the mover of a substantive motion or amendment a right of reply but must ensure that the reply is confined to matters raised during the debate.

(5) The reply of the mover of a motion or proposed amendment closes the debate on the motion or the amendment and the Speaker must not permit any other member to speak or move a proposed amendment in respect of the motion.

**70 Member may speak to Point of Order**

A member may speak –

(a) To a point of order; or

(b) Upon a matter of privilege suddenly arising.

**71 Point of Order takes precedence**

(1) A point of order being raised takes precedence.

(2) Any member who is speaking when a point of order is raised must cease speaking until the Speaker has given a ruling on the point of order.

**72 Offensive words**

The Speaker must intervene if offensive or disorderly words are used whether by a member who is speaking or by a member who is present.

**73 Personal reflection**

The Speaker must intervene if a member makes –

- (a) An imputation of an improper motive against a member; or
- (b) An offensive reference to a member's private affairs; or
- (c) A personal reflection against a member.

**74 Matters awaiting judicial decision**

(1) If it appears to the Speaker that there is a real and substantial danger of prejudice to a matter awaiting or under adjudication in a court the Speaker may order a member not to refer to the matter in –

- (a) A motion; or
- (b) A debate; or
- (c) A question, including a supplementary question.

(2) Paragraph (1) has effect –

- (a) In relation to a criminal matter, from when a charge is made; and
- (b) In relation to any other matter, from when proceedings are initiated by the filing of the appropriate document in the registry or office of the court.

(3) Paragraph (1) ceases to have effect when the verdict and sentence are announced or from when judgment is given in respect of the matter, as the case may be.

(4) If notice of appeal is given paragraph (1) has effect from when that notice is given until the appeal is decided.

(5) Paragraph (1) is subject to the right of the Assembly to legislate on any matter.

**75 Closure of debate**

(1) At any time after a motion or amendment has been proposed a member may move "That the question be now put".

(2) Unless it appears to the Speaker that the motion –

- (a) Is an abuse of these Standing Orders; or
- (b) Is an infringement of the rights of the minority of members, the Speaker must forthwith put the motion "That the question be now put".

(3) If the motion is carried the Speaker must put the question on the substantive motion or amendment without further debate.

**76 Question fully put by the Speaker**

A member must not speak to a question after –

- (a) It has been fully put by the Speaker; and
- (b) The vote on the question has been given both in the affirmative and negative.

**77 Adjournment in case of grave disorder**

If the Speaker thinks it necessary to do so because of grave disorder in the Assembly the Speaker may –

- (a) Adjourn the Assembly without question put; or
- (b) Suspend the sitting until a time or for a period specified by the Speaker.



**78 Respect to be shown to the Speaker**

A member who leaves the Assembly Chamber during a sitting must show respect to the Speaker both on leaving and on return to his or her seat.

## Part 18

## VOTING

**79 Voting of members**

(1) Except as otherwise provided by these Standing Orders, the Speaker determines if voting on a question before the Assembly is to be –

- (a) On the voices; or
- (b) By a show of hands; or
- (c) By a secret ballot held in a manner determined by the Speaker.

(2) If the Speaker is presiding at the time of a vote on a question and there is an equality of votes the question is lost.

(3) The Speaker declares the result of a vote.

[See articles 22(3)(4)(5) and article 35(1) of the Constitution]

## PART 19

## BILLS

**80 Power of Assembly to make laws**

[See article 28 of the Constitution]

**81 Distribution of copies of Bills**

(1) The Clerk must send a copy of a Bill to each member at least 10 days before the first reading of the Bill.

(2) A Bill specified in a Certificate of Urgency signed by the Speaker may be introduced without prior distribution to members.

**82 Introduction of Bills into Assembly**

[See article 29 of the Constitution]

**83 Rules regarding bills**

(1) A Bill introduced into the Assembly must be accompanied by an explanatory note signed by the member who introduced the Bill.

(2) The explanatory note must state the objects and reasons for the Bill.

(3) A Bill must have a distinguishing title.

(4) A Bill must be divided into successive clauses consecutively numbered, and each clause must have a head note giving a short indication of the content of the clause.

**84 Financial Bills**

The procedure for passing Appropriation Bills is subject to the additional requirements set out in Part 20.

[See article 30 of the Constitution]

**85 Bills affecting the Niue Public Service**

[See article 32(1) of the Constitution]

**86 Bills affecting Niuean land**

[See article 33(1) of the Constitution]

**87 Bills to be read three times in Assembly**

[See article 22(8) of the Constitution]

**88 Introduction and first reading of Bill**

- (1) A member may introduce a Bill to the Assembly by –
  - (a) Reading its Long Title; and
  - (b) Explaining the purpose and general intent of the Bill.
- (2) After introducing the Bill the member introducing the Bill must move “That the [short title of Bill] be read a first time”.
- (3) On the motion being made and seconded “That the [short title of Bill] be read a first time” the debate on that motion must be confined to the principles and general merits of the Bill.

**89 Procedure after first reading of Bill**

If the motion “That the [short title of Bill] be read a first time” is carried the member in charge of the Bill must move “That the [short title of Bill] be read a second time”.

**90 Second reading of Bills**

On the motion being made and seconded “That the [short title of Bill] be read a second time” the Speaker must not allow any amendment to the motion except an amendment to postpone the second reading of the Bill to some subsequent date.

**91 Procedure during debate on the motion that a Bill be read a second time**

- (1) During debate on the motion “That the [short title of Bill] be read a second time” the member in charge of the Bill must –
  - (a) Call the number of each clause of the Bill in succession; and
  - (b) Read the headnote to the clause.
- (2) When the member in charge of the Bill has read the headnote to a clause of the Bill –
  - (a) That member may provide an explanation in respect of the clause; and
  - (b) Other members may speak in respect of the clause.
- (3) If no amendment is offered in respect of a clause the Speaker must put the question “That clause [number of the clause] stands part of the Bill”.
- (4) If a clause is amended the Speaker must put the question “That clause [number of the clause] as amended stands part of the Bill”.
- (5) Notice need not be given of a motion to amend a clause nor does such a motion need to be seconded.
- (6) A member may speak more than once in respect of a clause or on a proposed amendment to a clause but when more than one member indicates a wish to speak the Speaker must give preference to a member who has not previously spoken.

**92 Amendments to comply with certain conditions**

(1) During debate on the motion “That the [short title of Bill] be read a second time” the Speaker must refuse to put to the Assembly any amendment the Speaker considers does not comply with the following conditions –

- (a) The amendment must be relevant to the subject matter of the Bill and to the subject matter of the clause (if any) to which it relates; and



- (b) The amendment must not be such as to make the clause (if any) it proposes to amend unintelligible or ungrammatical; and
- (c) If an amendment refers to or is not intelligible without a subsequent amendment, notice of the subsequent amendment is given before or when the first amendment is moved so as to make the series of amendments intelligible.

(2) The Speaker must not accept a motion by a member to delete the whole of a clause since the proper course for the member to take is to vote against the clause.

### **93 Postponement of consideration of a clause**

During debate on the motion "That the [short title of Bill] be read a second time" the consideration of a clause may on motion be postponed.

### **94 New clauses**

(1) During debate on the motion "That the [short title of Bill] be read a second time" any member may propose a new clause for the Bill.

(2) Any proposed new clause must be considered when the appropriate place for the insertion of the clause into the Bill is reached.

### **95 Schedules**

(1) During debate on the motion "That the [short title of Bill] be read a second time" any member may propose a new schedule for the Bill.

(2) Any proposed new schedule must be considered when the appropriate place for the insertion of the schedule into the Bill is reached.

### **96 Adjournment during debate on the motion that a Bill be read for a second time**

(1) If the consideration of a Bill by the Assembly on the motion "That the [short title of Bill] be read a second time" is not completed at the one time the consideration of the Bill may, on motion made, be adjourned until –

- (a) The next sitting day; or
- (b) Some subsequent sitting day or meeting of the Assembly.

(2) When the time appointed for the resumption of debate on the motion "That the [short title of Bill] be read a second time" arrives the Assembly must resume debate on that motion.

### **97 Member may move that Bill be referred to a select committee**

(1) At any time during debate on the motion "That the [short title of Bill] be read a second time" a member may move "That the [short title of Bill] be considered by the [name of appropriate Select Committee]".

(2) If a Bill is referred to a Select Committee no further proceedings are to be taken on the motion "That the [short title of Bill] be read a second time" until the Select Committee has reported to the Assembly.

(3) When consideration of a Bill by a Select Committee has been completed the member in charge of the Bill must report to the Assembly.

(4) The report must state "Mr Speaker I beg to report that the [short title of Bill] has been considered by the [name of Select Committee] and has been approved [with] or [without] amendment".

(5) Where the Bill has been approved by the Select Committee with amendments the member in charge of the Bill must move "That the amendments to the [short title of Bill] approved by the [name of Select Committee] stand part of the Bill".

(6) The Assembly may approve all or any of the amendments proposed by the Select Committee or reject them, and may continue the debate on the motion “That the [short title of Bill] be read a second time”.

**98 Conclusion of debate on the motion that a Bill be read a second time**

When the consideration of the motion “That the [short title of Bill] be read a second time” has been completed the Speaker must put to the Assembly the question “That the [title of Bill] [as amended – if amended during debate on the second reading] be read a second time”.

**99 Third Reading of Bills**

Upon motion being made and seconded “That the [title of Bill] [as amended – if amended during debate on the second reading of the Bill] be read a third time” amendments for the correction of errors or oversights may with the Speaker’s permission be made but no amendments of a material character are to be accepted by the Speaker.

[See article 35(1) of the Constitution]

**100 Bill passed**

After a Bill has been read a third time –

- (a) The Bill is to be taken to have been passed by the Assembly; and
- (b) Accordingly the Speaker must not put to the Assembly any further question in respect of the Bill.

**101 Assent to Bills**

(1) When a Bill (other than a Bill to which article 35 of the Constitution applies) has been passed by the Assembly the Clerk must prepare at least 2 copies of the Bill for certification under article 34 of the Constitution.

(2) When a Bill to which article 35 of the Constitution applies –

- (a) Has been passed by the Assembly under that article; and
- (b) Has been submitted to a poll and received the support prescribed by that article,

the Clerk must prepare at least 2 copies of the Bill to be certified under that article.

**102 Verbal or formal amendments**

In preparing a Bill for certification in accordance with article 34 or 35 of the Constitution the Clerk may –

- (a) Make amendments of a verbal or formal nature; and
- (b) Correct clerical, typographical or cross-reference errors.

**103 After certification**

When a Bill has been certified in accordance with article 34 or 35 of the Constitution, the Clerk must –

- (a) Retain one certified copy of the Bill with the records of the Assembly; and
- (b) Deposit one certified copy of the Bill with the Attorney-General.

**104 Withdrawal of Bills**

A member in charge of a Bill may by motion without notice withdraw the Bill from the Assembly.

**105 Power of Assembly to send for persons, papers and records**

During debate on the motion “That the [short title of Bill] be read a second time” the Assembly may approve a motion to require –

- (a) The department of Government concerned; or
- (b) An outside person or body –
  - (i) to submit a report to explain a provision of the Bill; or
  - (ii) to depute a representative to appear as a witness before the Assembly to explain a provision of the Bill.

[These Standing Orders only bind the Speaker and Members of the Niue Assembly (although even here the Assembly may, in any particular case, suspend their application). They do not bind other people. So it is not an offence for a person to fail to comply with a requirement made under this Order. To make it an offence the Assembly would need to pass legislation setting out the powers and privileges of the Assembly. Such legislation is provided for by article 24(5) of the Constitution.]

## PART 20

## APPROPRIATION BILLS

**106 Procedure to be followed to enact Appropriation Bills**

The procedure for passing Appropriation Bills is the same as for passing other Bills as set out in Part 19 subject to the variations and additional requirements set out in this Part.

[See article 30 of the Constitution]

**107 Annual Appropriation Bill and estimates of expenditure**

[See articles 58 and 59(1) of the Constitution]

**108 Contents of Appropriation Bill**

The Appropriation Bill for a financial year must contain –

- (a) An estimate of the expenditure to be made from the Niue Government Account for all the services of Government for that financial year (other than expenditure for a service of Government authorised by any other law); and
- (b) A Schedule specifying the amount of that expenditure appropriated to each department of Government for that financial year.

**109 Contents of draft Estimate of Expenditure and Financial Statement**

(1) Details of the amount appropriated by the Appropriation Bill to each department of Government for the financial year must be contained in a draft Estimate of Expenditure and Financial Statement.

(2) The draft Estimate of Expenditure and the Financial Statement for a financial year must also –

- (a) Show expenditure for a service of Government authorised by any other law; and
- (b) Contain an estimate of the revenue to be received by each department of Government during the financial year.

**110 Draft Estimate of Expenditure and Financial Statement to be sent to each member**

The draft Estimate of Expenditure and the Financial Statement for a financial year must be sent to each Member at the same time as the Appropriation Bill is sent to members.

**111 Copy of budget statement to be provided to members**

If the Minister in charge of an Appropriation Bill intends to read a budget statement on moving "That the Appropriation Bill be read a first time" the Minister must before making that statement provide each Member with a copy of it either in the Niuean language or the English language, as requested by the member.

**112 Consideration of Departmental votes**

(1) During debate on the motion "That the Appropriation Bill be read a second time" the clauses of the Bill stand postponed until after the consideration of the Schedule to the Bill.

(2) On consideration of the Schedule to an Appropriation Bill the Minister in charge of the Bill must call the title of each department of Government in turn and propose the question "That the sum of \$[amount] for the [name of Department of Government] Departmental Vote stands part of the Schedule".

(3) A member may move an amendment to reduce the sum appropriated for an item in a Departmental Vote by proposing the question "That the sum appropriated to item [item number as contained in the draft Estimate of Expenditure and Financial Statement] in the [name of Department] Departmental Vote be reduced by \$[amount].

(4) When several such amendments are proposed to reduce the amount appropriated to various items in a Departmental Vote –

(a) They must be called in the numerical order of the vote items as contained in the draft Estimate of Expenditure and Financial Statement; and

(b) If there is more than one amendment to the same item, the larger reduction must be put first.

(5) An increase in the sum appropriated for an item in a Departmental Vote cannot be moved except by the Minister in charge of the Bill and then only with the consent of the Premier.

(6) If an amendment is moved to increase an amount appropriated to an item in a Departmental Vote –

(a) It takes priority over any amendment to decrease the amount appropriated to the item; and

(b) If carried, any amendment to decrease the amount appropriated to the item lapses.

(7) When all amendments in respect of a Departmental Vote have been disposed of, the Speaker must propose the questions "That the sum) or reduced or increased sum of \$[amount] for [name of Department of Government] Departmental Vote stands part of the Schedule".

(8) When each Departmental Vote in the Schedule to an Appropriation Bill has been dealt with the Speaker must call each clause of the Bill.

(9) When calling a clause the Speaker must indicate to members any consequential amendment to the amount specified in the clause as a result of any change in an amount appropriated in respect of a department of Government.

**113 Third Reading to be taken immediately after Second Reading**

(1) When an Appropriation Bill has been read a second time the third reading of the Bill must be taken forthwith.

(2) The Speaker must not allow any debate on the motion for the third reading of an Appropriation Bill.

**114 Appropriation Bill takes precedence over other business**  
An Appropriation Bill takes precedence over all other business.

**115 This Part to apply to Supplementary Appropriation Bills**  
This Part applies to a Supplementary Appropriation Bill in the same way as it applies to an Appropriation Bill.

PART 21  
SELECT COMMITTEES

**116 Appointment of Select Committee**  
(1) The Assembly may –  
    (a) Appoint a Select Committee consisting of members; and  
    (b) Refer to the Committee a matter for consideration or enquiry and report.  
(2) A matter referred to a Select Committee may include –  
    (a) Any proposed Bill submitted to it by a Minister before its approval by the Government and its introduction into the Assembly; and  
    (b) Any proposals for public expenditure (with any estimates of revenue) submitted to it by the Minister responsible for finance before their approval by the Government and the introduction into the Assembly of a Bill to authorise that expenditure.  
(3) In respect of a matter referred to it by a Minister a Select Committee must report to that Minister.

**117 Control and dissolution of Select Committees**  
A Select Committee is subject to the control of the Assembly and accordingly –  
    (a) May be dissolved by the Assembly; or  
    (b) Have its functions transferred by the Assembly to another Committee appointed by the Assembly.

**118 Chairman of Committee**  
(1) A Select Committee must elect a Chairman before proceeding to any other business.  
(2) A Chairman so elected holds office during the life of the Committee unless the members of the Committee otherwise determine.  
(3) A Chairman of a Select Committee may call a meeting of the Committee at any time the Chairman is satisfied there is a matter to be considered by the Committee.

**119 Quorum of Committee**  
The quorum of a Select Committee, unless otherwise ordered by the Assembly, is half of the members appointed to the Committee.

**120 Voting**  
(1) A question before a Select Committee is to be decided by a majority of votes of the members present.  
(2) A Chairman of a Committee has a deliberative and, if there is an equality of votes, a casting vote.

**121 Procedure of a Select Committee**

Except as otherwise provided by this Part, Standing Orders applicable during the debate on the second reading of a Bill apply to a Select Committee.

**PART 22****PECUNIARY INTERESTS OF MEMBERS TO BE DECLARED**

[See article 119 of the Constitution]

**122 Pecuniary interest defined**

(1) A pecuniary interest is a direct financial benefit that might accrue to a member personally, or to any trust, company or other business entity in which the member holds an appreciable interest, as a result of the outcome of the Assembly's consideration of a particular item of business.

(2) A pecuniary interest –

- (a) Includes a pecuniary interest held by a member's spouse or domestic partner or by any child of the member who is wholly or mainly dependent on the member for support, but
- (b) Does not include any interest held by a member or any other person as one of a class of persons who belong to a profession, vocation or other calling or who hold public offices or an interest held in common with the public.

**123 Members to declare pecuniary interests**

A member must, before participating in the consideration of an item of business, declare any pecuniary interest that the member has in that business.

**124 Speaker decides if interest held**

If a dispute arises as to whether a member has a pecuniary interest, the matter is to be determined by the Speaker, whose decision is final.

**PART 23****TIME LIMIT OF SPEECHES****125 Time limit of speeches**

(1) The Speaker must limit the time allowed for a speech in the Assembly as follows –

<b>Matter</b>	<b>Time limit in minutes</b>
A Bill, motion, amendment or the Consideration of a Paper – The mover	15
Another member	10
Report of Select Committee	10
Presentation of Petition	5
Presentation of Papers	5
Replies to Questions	5

(2) These limitations do not apply to a member in charge of an Appropriation Bill delivering the first reading speech in respect of the Bill.

(3) Subject to leave of the Assembly, a member may be granted an extension of time not exceeding half the time allotted to him or her under paragraph (1).

#### PART 24

##### SUSPENSION OF STANDING ORDERS

#### **126 Suspension of Standing Orders**

(1) A member may with the consent of the Speaker move a motion with or without notice "That Standing Order [number of Standing Order] be suspended [wholly or in part or as appropriate]."

(2) The Speaker must not give approval under paragraph (1) unless 10 members are present at the time the motion is to be moved.



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**Pursuant to article 68 of the Constitution the Niue Public Service Commission, with the approval of Cabinet, makes the following Regulations**

GENERAL

**1 Name**

These are the Public Service Regulations 2004.

**2 Interpretation**

(1) Expressions in these Regulations have the same meaning as they have in the Constitution.

(2) In these Regulations –

“actual service” means the period of an employee’s employment in the Service, including any period of authorised paid leave, but does not include any period of voluntary leave without pay or any period of broken service;

“Appeals Committee” means the Appeals Committee referred to in regulation 80;

“broken service” means any situation where an employee has ceased to be a member of the Service and is subsequently re-employed;

“certificate of employment” means a statement in writing of the work record in the Service of an employee;

“consequential vacancy” means a position that becomes vacant immediately following the appointment of an employee to fill another position or an advertised vacancy;

“continuous service” means an uninterrupted period of employment including any period of authorised leave;

“contract employee” means a person employed on a contract of service under regulation 26;

“contributory service” means the period during which an employee contributes to a superannuation scheme or fund approved by the Commission, including any period of previous service the employee elects to include in contributions to the superannuation scheme or fund;

“controlling officer” in relation to an employee, means the person who is for the time being in charge of that employee and authorised to require that employee to do or abstain from doing any act or thing;

“Department” means each separate organisation or office of the Service;

“employee” means any person employed in the Service as a permanent employee, a probationer, a contract employee, or a temporary employee;

“healthy” means not harmful;

“Manual” means the Manual of Instructions 1983 issued by the Commission under article 68(2) of the Constitution or regulation 4 and includes any updated Manual;

- “Official Circular” means the Niue Public Service Official Circular issued by the Commission;
- “permanent employee” means an employee other than a probationer, or a contract employee, or a temporary employee;
- “probationer” means a person employed on probation under regulation 25;
- “redeployment” means the release of an employee by the Commission from normal duties for a specified period to undertake work on a community project, or other duties outside the Service, approved by the government;
- “Service” means the Niue Public Service;
- “Service Organisation” means the Niue Public Service Association Incorporated;
- “specified office” means the office of Secretary to the Government, of High Commissioner to New Zealand, or of Head of Department, or of a medical or legal officer, or of an accountant or teacher or of any other similar office for which a tertiary-level qualification is required;
- “temporary employee” means a person employed in a temporary or relieving capacity under regulation 27;
- “transfer” means the moving of an employee by the Commission from one position in the Service to another, either within a department, or to another department, as a disciplinary measure, with or without promotion, following a request of the employee, or for some other reason consistent with the purposes of these Regulations.

### 3 Purposes and achievement of Service goals

- (1) The purposes of these Regulations are –
- (a) To provide standards of service for all departments and offices of the executive government;
  - (b) To promote the efficiency, effectiveness and economy and harmonious functioning of all departments and offices of the executive government by –
    - (i) procuring the application of quality technical and professional knowledge, methods, system and practice;
    - (ii) avoiding extravagance and waste;
    - (iii) aiming at high quality work and output;
    - (iv) controlling the volume of the work performed;
    - (v) training, up-skilling and re-skilling of employees;
    - (vi) maintaining a proper standard of conduct and ethics by employees;
    - (vii) encouraging employees, through incentives, to submit suggestions for increasing the efficiency, effectiveness or economy of the Service, and decreasing the cost and volume of work of the State;
  - (c) To promote mutual trust and confidence in all aspects of the employment relationship which must be built on good faith behaviour.
- (2) In all cases these Regulations shall be interpreted consistently with the purposes set out in regulation 3 and with a view to achieving those purposes.

#### **4 Manual of Instructions**

(1) The Commission must produce and publish an updated Manual of Instructions at regular intervals.

(2) All terms and conditions for employees must be consistent with the Constitution and with these Regulations.

(3) Additional instructions, and amendments of, or revocations to existing instructions shall be published in the Official Circular or in such other manner as the Commission thinks fit.

(4) Every head of department must ensure copies of these Regulations and the Manual in their possession are in secure custody and are kept up to date.

#### **5 Access to Regulations and Manual**

(1) The Commission must supply departments with sufficient copies of Part VI of the Constitution, these Regulations and the Manual, and the head of every department must ensure these documents are readily available for employees to read.

(2) Every employee is deemed to have notice of, and must comply with, all instructions, directions and conditions of employment contained in Part VI of the Constitution, these Regulations, the Manual, the Official Circular, or which have been communicated to the employee in any other manner.

#### **6 Code of conduct**

The Commission must establish and maintain a code of minimum standards of conduct for the Service, reflecting the following principles of conduct –

- (a) In assisting the Cabinet in exercising the executive authority of Niue, under article 62 of the Constitution, employees must act with professionalism and political neutrality;
- (b) Employees must perform their official duties honestly, faithfully and efficiently, respecting the rights of the public and those of their colleagues;
- (c) Employees must not bring the Service into disrepute through their private activities.

#### **7 Appointment of employee as a member of the Commission**

Where an employee is appointed as a member of the Commission the employee must take leave of absence from the Service for the period of membership of the Commission.

#### **8 Inspection**

(1) The Commission may appoint and authorise any person (employed in the Service or otherwise) to inspect any department, employee or class of employee.

(2) The person making the inspection shall report on –

- (a) The efficiency, effectiveness and economy of the department inspected, or the performance of the employee or class of employees; and,
- (b) Specify in the report any changes and measures considered necessary to improve the efficiency, effectiveness and economy of the department, or to improve the performance of the employee or class of employees.

(3) Any report arising from the inspection of a department in relation to its functions and responsibilities must be referred to Cabinet for its information.

## **9 Notice to employees**

Where under these Regulations any notice is required to be given to an employee in respect of any decision or other matter, it is (except in the case specified in regulation 69) sufficient compliance with that requirement if the notice is published in the Official Circular or is sent to the employee by letter or by facsimile to the employee's place of employment or last known place of abode.

## **10 Representation by the Service Organisation**

(1) The Service Organisation, without prejudice to the right of any employee to act on his own behalf, may make representations to the Commission on any matter affecting the conditions of employment of an employee, or class of employee.

(2) In making a decision on any matter, the Commission must give due consideration to representations made by the Service Organisation, or by an employee, in addition to any other consideration that the Commission thinks fit.

(3) The Service Organisation must, as far as possible, endeavour to discuss all its concerns and grievances with the Commission.

## **11 Industrial action unlawful**

(1) No employee shall participate in any form of industrial action or refuse to perform duties as lawfully directed by the Commission or act or conspire to act in any way that would adversely affect the provision, the adequacy and quality of essential services or any work primarily the responsibility and duty of the employee to carry out.

(2) Any employee who acts in breach of this regulation is deemed to have forfeited office forthwith and the Commission must inform the employee accordingly.

## **12 Essential services**

(1) "Essential services" includes –

- (a) The supply of electric power and water, sanitation and plumbing services, and other public utilities;
- (b) The provision of medical, dental and associated or support services;
- (c) The maintenance of law and order;
- (d) Teaching and the provision of other services related to education;
- (e) The provision of fire and rescue services (sea and land);
- (f) The provision of transport services by air, land or sea;
- (g) The provision of border control services such as customs, health, immigration, quarantine, and security;
- (h) The provision of telecommunications and postal services, both internal and external;
- (i) The provision of meteorological services;
- (j) The provision of fuel and oil;
- (k) The provision of administrative, economic, financial, legal and planning advice, and corporate support services;
- (l) Any other service as determined by the Cabinet.

(2) The minimum level and quality of essential services to be provided by the Service are such as determined by the Cabinet in consultation with the Commission.

**13 Occupational safety and health**

The Commission must take all practical steps to ensure the safety and health of employees while at work, and in particular must take practical steps to –

- (a) Provide and maintain a safe and healthy working environment; and
- (b) Provide and maintain facilities for safety and health; and
- (c) Provide safety and health awareness information and instruction programmes; and
- (d) Develop procedures for dealing with emergencies.

**14 Advice and counselling**

The Commission must take practical steps to provide work related advice and counselling to employees on matters affecting their individual employment, including their health and welfare in relation to their employment.

VACANCIES, ADVERTISEMENTS, APPOINTMENTS, STATUS AND TENURE OF EMPLOYEES

**15 Establishment of positions**

(1) The Public Service shall comprise such positions as are publicly notified from time to time by the Commission.

(2) The Commission may, with the approval of Cabinet, establish or disestablish any position within the Service.

(3) The Commission shall, on the advice of Cabinet, and subject to article 69 of the Constitution, establish or disestablish any position within the Service.

**16 Vacancies**

(1) The Commission may fill any vacancy –

- (a) With an employee from within the Service by way of transfer, either with or without promotion provided that only a transfer or promotion will be subject to an open right of appeal; or,
- (b) By advertising the vacancy within or outside the Service, or both; or,
- (c) By making an appointment to a consequential vacancy from among the unsuccessful candidates who applied for an advertised vacancy; and, where an appointment made in this manner involves promotion, it will be subject to appeal but only by those who applied for the advertised vacancy.

(2) If the Commission advertises a vacancy it must –

- (a) Publish the advertisement in the Official Circular or in some other suitable manner;
- (b) Provide at least 14 days between the date of the first advertisement for a vacancy and the deadline for receipt of applications for that vacancy.

(3) Every application for a vacancy must be in writing and shall include all such information as the Commission requires as specified in any advertisement.

**17 Educational qualifications for appointment**

The Commission may specify a standard of education required as a minimum qualification for appointment as an employee or for a particular position or class of occupation in the Service.

**18 Medical examination and retirement for medical reasons**

(1) Before any person is appointed as an employee, that person must furnish to the Commission at his own expense an up-to-date certificate or report on his general state of health and fitness by a registered medical practitioner or medical officer approved by the Commission.

(2) Every employee must if called upon, furnish to the Commission a medical certificate or report on the employee's general state of health and fitness to continue in employment.

(3) If an employee has become inefficient or becomes unable to properly perform the employee's duties because of chronic or continuous illness, or change in nature of a disability, the Commission may require the employee to retire from the Service.

(4) An employee who provides to the Commission 2 independent medical reports supporting that employee's retirement for medical reasons may apply to the Commission to retire as medically unfit for further duty, and the Commission must grant such retirement if satisfied that the medical reports are valid.

**19 Criteria for appointment**

- (1) All appointments shall be made on merit.
- (2) The Commission must determine the merits of an applicant for appointment to the Service by the applicant's –
- (a) Work experience and competence shown in the performance of duties previously carried out in the Service or elsewhere; and
  - (b) Relevant educational and other qualifications; and,
  - (c) Personal qualities, characteristics and attributes relevant to the position to be filled; and
  - (d) Any other factor specified by the Commission.
- (3) The Commission may only appoint a person to a position in the Service, who –
- (a) Is available to take up the position within a reasonable time; and,
  - (b) Has met at least the minimum qualifications criteria established for the position.
- (4) A member of the Commission who wishes to apply for a position in the Service must not be a part of the interview panel.

**20 Form of appointment**

- (1) The Commission may appoint an employee only –
- (a) In the case of a permanent employee or a probationer, by issuing a letter of appointment setting out the employee's position and capacity, and the salary and grade to which the employee has been appointed;
  - (b) In the case of a contract employee, by entering into a contract with specific terms and conditions;
  - (c) In the case of a temporary employee, by entering into a contract with specific terms and conditions of employment.
- (2) Except where express conditions of employment are provided in respect of a contract employee or a temporary employee, the conditions of employment shall be as provided in these Regulations and the Manual.



**21 Effective date of appointment and promotion**

(1) The date of the document of appointment or promotion is the date the appointment or promotion is effective unless the document of appointment or promotion states otherwise.

(2) When a person is appointed or promoted to a position in the Service, the salary in respect of that position is payable from the date on which the appointment takes effect.

**22 Appointment to specified offices**

(1) Before appointing a person to a specified office, the Commission must, in a manner that is consistent with its responsibilities under articles 68 and 69 of the Constitution, consult the Minister to whom primary responsibility for the department is allocated.

(2) Appointment to a specified office shall be for a term not exceeding 3 years and the appointment shall terminate at the end of the period specified in the contract without further notice by the Commission.

(3) On the termination of appointment to a specified office, a permanent employee shall, unless reappointed to that office or appointed to another specified office, be transferred to another position in the Service on conditions no less favourable than those that applied to the employee at the time of appointment to the specified office.

**23 Statutory declaration**

Every employee must, on taking up employment in the Service, complete a statutory declaration in a form approved by the Commission to the effect that the attention of the employee has been drawn to the general conditions of employment contained in these Regulations and the Manual, including specifically regulations 4, 5, 11, 12 and 53.

**24 Permanent employees**

No person under the age of 18 years at the time of appointment shall be a permanent employee.

**25 Probation**

(1) Subject to paragraphs (2) and (3), a person who is appointed to the Service, other than as a contract or temporary employee, is on probation for a period of not less than 3 months or more than 6 months, as the Commission determines.

(2) The Commission may waive the probation period of an employee who has previously been employed in the Service for 12 months or more.

(3) At the expiry of an employee's period of probation, the Commission may by notice in writing to a probationer –

(a) Extend the employee's period of probation for a specified period not exceeding 3 months; or

(b) Confirm or annul the employee's appointment.

(4) Unless an earlier or later date is specified in the notice, the extension, confirmation or annulment under paragraph (3) takes effect on and from the date of the notice.

(5) If 30 days elapse following the period of probation and the Commission has not taken action under paragraph (3), the appointment of that employee is deemed to have been confirmed.

**26 Contract employee**

(1) The Commission may, in the best interest of the Service, enter into a contract of service for a specific task or purpose for a specified period with any person who is not a permanent employee of the Service.

(2) A contract entered into under paragraph (1) –

(a) Will be governed by its express terms and conditions and, to the extent that they are not inconsistent with the contract, by these Regulations as they apply to permanent employees; and,

(b) Shall be for a term not exceeding 3 years, but may be renewed or extended for such period as considered necessary by the Commission; and

(c) May be terminated at any time by the Commission on account of serious misconduct by the employee.

(3) Where the appointment of the contract employee is to a specified office, the appointment is subject to regulation 22.

(4) A contract employee who is subsequently appointed as a permanent employee may apply to the Commission to have the period of contract employment included as service as a permanent employee.

**27 Temporary employee**

(1) Temporary employees may be engaged and discharged as considered necessary on terms and conditions of employment determined by the Commission.

(2) A temporary employee who is subsequently appointed as a permanent employee may apply to the Commission to have the period of temporary employment included as service as a permanent employee.

**28 Cessation of employment**

(1) Cessation of employment in the Service may occur by –

(a) In the case of a contract employee or a temporary employee, the end of the term of the contract; or;

(b) By notice under this regulation; or,

(c) Retirement on medical grounds under regulation 18, by choice, or under regulation 29(2); or,

(d) Forfeiture of office under regulation 69;

(e) Dismissal as the ultimate disciplinary measure; or

(f) Death.

(2) The employment of every permanent employee or contract employee can be terminated by either party giving at least 3 months written notice.

(3) If a permanent employee gives the Commission less than 3 months notice, the Commission may –

(a) Require a minimum of 3 months notice, or

(b) The Commission may accept a shorter period of notice, or

(c) May terminate the employment forthwith.

(4) The employment of a temporary employee may be terminated by either party giving at least 2 weeks written notice.

(5) If a temporary employee gives the Commission less than 2 weeks notice, the Commission may –

(a) Require a minimum of 2 weeks notice, or

(b) The Commission may accept a shorter period of notice, or

(c) May terminate the employment forthwith.



**29 Retirement from the Service**

(1) A permanent employee who has completed not less than 10 years of actual service may apply for retirement from the Service at 50 years of age.

(2) All permanent employees must retire at 55 years of age.

**30 Re-employment**

The Commission shall not employ as a permanent employee any person who has been dismissed from the Service.

## CANDIDACY AND MEMBERSHIP OF ASSEMBLY OR VILLAGE COUNCIL

**31 Candidacy**

(1) When an employee decides to become a candidate in the Assembly or a Village Council election he must forthwith give notice in writing to his Head of Department who must notify the Commission as soon as possible.

(2) An employee who becomes a candidate for election as a member of the Assembly must be placed on leave of absence and the leave must commence no later than nomination day and must continue until the day after polling day.

(3) During leave of absence under paragraph (2) the employee must –

(a) Not be required or permitted to carry out any official duties in the Service; and

(b) Not be entitled to receive any salary or other remuneration as an employee in respect of that period except to the extent to which during that period any leave with pay to which the employee is entitled is taken.

(4) Except as provided in paragraph (3) the rights and entitlements of the candidate as an employee are not to be affected by the candidacy.

**32 Membership of the Assembly or Village Council**

(1) An employee who has become a candidate for election to the Assembly or to a Village Council must, if the employee's candidature is successful, give notice in writing to the Commission through the Head of Department stating he has been elected and declare whether he accepts the membership.

(2) An employee who has been granted leave of absence under article 18 of the Constitution must not, except with the Commission's consent –

(a) Carry out any official duties in the Service; or

(b) Receive any salary or other remuneration as an employee for the period of leave of absence other than leave with pay to which the employee is entitled or for any official duties performed that have been authorised by the Commission under this paragraph.

(3) Subject to paragraphs (1) and (2) the rights of a person as an employee are not to be affected by membership of the Assembly or of a Village Council.

## GRADING AND PROMOTION

**33 Permanent positions to be graded**

(1) The Commission must, to the extent that it considers practicable, organise positions in the Service into occupational groups or classes.

(2) The Commission must divide each occupational group or class into professional, technical, and support service grades.

(3) The Commission must place every employee, other than a contract employee or temporary employee, in a suitable grade.

**34 Determination and allocation of grades in the Service**

(1) The Commission must allocate, and determine the date of application (whether before, on, or after the date of the determination) of a grade and salary to a position, having regard to –

- (a) Any minimum qualifications required for the position;
- (b) The level of responsibility the position entails;
- (c) The experience and skill required for the position.

(2) There is no right of appeal against the Commission's allocation of a grade and its determination of the date of application of that grade for any position.

(3) The Commission must from time to time conduct a review of the grading of the positions in Service and in so doing must ascertain whether or not there is any need to adjust the salary scale or grading structure, having regard to the criteria in paragraph (1).

**35 Application for review of grading**

(1) Notwithstanding regulation 33(3), a Head of Department may apply to the Commission for a review of the grading of a position within the department.

(2) If the grade of the position has not been reviewed in the three years immediately prior to the application, a permanent employee may apply in writing to the Commission for a review of the grading for the position he occupies.

(3) On receipt of any application under paragraph (2) the Commission must review the grade of the position in question and notify the employee of its decision.

(4) An employee who is not satisfied with the decision given under paragraph (3) may, within 14 days after notification of the Commission's decision, apply to the Appeals Committee for a review of the application.

**36 Performance assessment report on employees**

(1) At least once every 12 months each Head of Department must provide to the Commission in respect of each employee in the department, a performance assessment report according to criteria determined by the Commission.

(2) At least once every 12 months the Commission must provide a performance assessment report to Cabinet –

- (a) In respect of the Secretary to the Government, after consultation with the Premier; and
- (b) In respect of Heads of Department, after consultation with the appropriate Minister.

**37 Advancement on merit**

(1) The Commission may direct that an employee may not proceed beyond a specific point in the salary range of the relevant grade, or it may approve advancement if the Commission is satisfied that the employee's assessed performance warrants the advancement.

(2) The Commission may direct that an employee may not proceed beyond a specific salary point until he has passed any qualifying examination or complied with any professional standard that the Commission specifies.

(3) The Commission may accelerate the increase in salary of an employee within the given grade for the position held by that employee, or it may instead approve the payment to an employee of a special grant where –

- (a) The employee has successfully completed a relevant course of studies or achieved a professional standard which in the opinion of the Commission is deserving of a special consideration; or
- (b) In any other case of outstanding merit.

## GENERAL CONDITIONS OF EMPLOYMENT

**38 List of employees**

The Commission will publish annually a list of all employees, in such a form and with such particulars as the Commission determines.

**39 Allowances**

The Commission may make provision in the Manual for the classes or types, and the nature and rates of allowances employees may receive in addition to their remuneration or, as additional terms and conditions of employment.

**40 Hours of attendance**

(1) The Commission must determine the hours of attendance to be observed by all employees.

(2) The total ordinary time per week must not exceed 40 hours.

**41 Additional hours of duty**

(1) Any employee who is called upon by the head of department to work additional hours must work such hours as required.

(2) Payment or time off in lieu for additional hours must be made at such rates and conditions as the Commission determines.

**42 Records of attendance**

In every department attendance books or other records of attendance must be kept, and in a form and with such particulars as determined by the Commission.

**43 Absence from place of employment**

No employee may leave the place of employment during the prescribed hours of attendance, except on official business or with the permission of the controlling officer.

**44 Care of government stores and property**

Every employee must exercise strict care and economy in the use of plant, equipment, stores, stationery, documents and other property of the Government.

**45 Accounts and government money**

Every employee must exercise strict care in the handling of money held on behalf of the Government, and in the observance of all instructions relating to accounts and the collection, receipt, custody or payment of Government money.

**46 Borrowing and lending of government money and property**

No employee shall –

(a) Seek from another employee any unauthorised loan or allowance from money held by that other employee as a receiver of public money;

(b) Make any unauthorised loan or allowance out of money paid to or held by the employee as a receiver of public money;

(c) Unlawfully authorise the expenditure, the use, or the lending of public money, stores, equipment or other property of the Government;

(d) Borrow any item of stores, equipment, plant or other Government property for personal use.

**47 Liability or commitment not to be incurred**

No employee may, without proper authority, incur or attempt to incur any liability or commitment, or make or vary or attempt to make or vary any contract on behalf of the Government.

**48 Secondary employment and participation in private business**

(1) Every employee who expects to be appointed or to be elected to any paid office in connection with any commercial or industrial or other business, or to undertake any private practice of any profession or trade or be involved in the management or work of any business whether or not owned by him, must first apply in writing to the Commission for approval.

(2) Notwithstanding paragraph (1), an employee may engage in subsistence agriculture, fishing or hunting activity outside working hours.

(3) Nothing in this regulation prohibits an employee from becoming a member or shareholder of an incorporated body.

**49 Service on statutory authorities**

An employee must inform the Commission after accepting a nomination or appointment as a judicial officer, a member of a statutory authority, board, or committee (whether established by enactment or otherwise), or other Cabinet nomination or appointment.

**50 Conflict of interest**

(1) If the employee becomes aware of any potential or actual conflict of interest between the employee's official duties, responsibilities and obligations and the employee's personal interest, whether directly or indirectly, the employee must inform the Head of Department and the Head of Department must inform the Commission accordingly.

(2) Examples of a conflict of interest include situations where –

(a) An individual or organisation with which an employee is involved is given preferential treatment (whether by access to goods and services or access to inside information) over any other individual or organisation; or

(b) An employee has a financial or other interest or undertaking that could directly or indirectly compromise the performance of the employee's duties, or the standing of the employee's department in its relationships with the public, clients, or Ministers.

(3) The Commission must take the necessary steps to emphasise to employees their obligation to avoid, minimise or prevent involvement in any situation where there will be a likely or actual conflict of interest.

**51 Restrictions on remuneration**

Except with the express approval of the Commission, no employee may receive or accept otherwise than for the use of the Government, any gratuity, fee, reward, refund or other remuneration of any kind whatsoever, except –

(a) The employee's salary and any allowance owing to the employee by the Government for services performed for the Government, or for attendance in an official capacity or under a subpoena or order to give evidence or produce documents in court;

(b) A refund for any necessary and reasonable expenses incurred and paid for the employee in the performance of a service for the Government or in attending at the court.

**52 Solicitation, acceptance of gifts or bribery**

(1) No employee shall, directly or indirectly, solicit or accept gifts or presents or gratuity or other valuable consideration from any person, either directly or indirectly, in relation to any matter connected with the duties and responsibilities of the employee.

- (2) Nothing in this regulation prohibits the acceptance by an employee –
- (a) Of a gift made as a token of courtesy according to local custom; or
  - (b) Of a gift presented to the employee on retirement from the Service or on transfer from one locality to another; or
  - (c) Of a presentation from fellow employees.

**53 Restriction on official information**

(1) For the purpose of this regulation official information includes any document, electronic storage device or instrument or item of equipment capable of recording and or retaining information or data whether in writing, print, graphics, film, voice, sound or in any other form.

(2) No employee shall use, remove or cause to be removed, copy by whatever means or process, give to another person or party, damage or destroy, or howsoever dispose of any official information unless it is specifically authorised.

(3) No employee shall use for any purpose, other than for the proper discharge of his official duties any information gained by or conveyed to an employee through his connection with the Service.

(4) No employee shall make any communication to the media or to any person outside the Service –

- (a) On matters affecting the Service, without the consent of the Commission;
- (b) On matters affecting the Government, without the consent of the responsible Minister.

**54 Outside influence**

(1) No employee may solicit the influence of any person in order to obtain an advantage on any matter concerning him, a friend or relative in the Service whether it relates to promotion, transfer, discipline, investigation or any other matter.

(2) Nothing in this regulation applies to evidence given on behalf of an employee before a court, or the Appeals Committee, or to representations made by the Service Organisation or to any application or representations made to the Commission in accordance with these Regulations or the Manual, or to any request by an employee for a certificate of employment, or a character reference intended for a purpose outside of the Service.

**55 Transfer and redeployment of employee**

(1) The Commission may transfer any employee, and the employee so directed must move accordingly and perform the duties assigned.

(2) Subject to the exigencies of the Service, the Commission shall give an employee at least 1 week's notice of its decision to transfer the employee.

(3) The conditions of employment of an employee transferred under paragraph (1) shall be no less favourable than those that the transferred employee was entitled to receive at the date of the transfer.



- (4) A transfer may be made –
- (a) At the request of the employee; or
  - (b) Where the Commission decides that the transfer is in the interests of departmental efficiency or desirable on the grounds of administrative convenience; or
  - (c) Under regulation 76(3); or
  - (d) Under regulation 75(1)(c).
- (5) In consultation with the Commission, the Cabinet or the Minister responsible may redeploy an employee by releasing that employee for a specified period and on agreed terms and conditions, to be engaged on an approved community project, or other work outside of the Service, provided the principal duties and responsibilities of the employee will not be adversely affected.
- (6) Any decision as to transfer by the Commission shall be final and not subject to appeal or judicial review.

#### **56 Rent for accommodation**

Where the government provides an employee with accommodation, any rent payable in respect of that accommodation may be deducted from the employee's remuneration or from any other money due to the employee without further authority other than this regulation.

#### **57 Authority to take money for unpaid debt to the Government**

If an employee owes a debt to the Government which has been outstanding for at least 6 months, and the employee acknowledges in writing to the Commission that he owes the debt, then the Commission may authorise the deduction of a reasonable amount from the employee's fortnightly salary, not exceeding 10% of the employee's net after tax salary.

### LEAVE

#### **58 Annual leave**

Every employee must be granted annual leave as the Commission may direct.

#### **59 Special leave**

In special cases the Commission may grant special leave of absence with or without pay on such terms and conditions as the Commission may determine.

#### **60 Maternity leave**

(1) Female employees may be granted maternity leave for such periods and subject to such conditions as the Commission determines, provided the employee has been in the Service for not less than 12 months immediately prior to application for maternity leave.

(2) Where a female employee has been granted maternity leave, that employee may receive up to 60 consecutive days leave on full pay, and a further 30 consecutive days on 50% pay, at current salary, payable fortnightly from the commencement of the maternity leave period.

(3) The Commission may, upon application, approve a period of up to 6 months at any one time of maternity leave to be counted towards continuous service and contributory service.

**61 Paternity leave**

A male employee may be granted 5 consecutive days paternity leave with pay in the event of the birth of his child.

**62 Contract and temporary employee leave**

(1) Leave of any kind for a contract employee is either stipulated in the contract document or, if not so stipulated, is the same as for permanent employees.

(2) If not otherwise determined by the Commission, leave of any kind for a temporary employee shall be the same as for permanent employees.

**63 Retiring leave**

Every employee who qualifies under criteria established by the Commission shall be entitled to retiring leave based on the length of the employee's service, and on terms and conditions determined by the Commission.

**64 Payment for leave on death of employee**

On the death of an employee the Commission may approve payment to the surviving spouse or dependants of the estate of any amount equal to the salary or wages that could have been granted to the deceased for any annual leave, retiring, and other leave due if he or she had retired on the date of death.

**65 Sick leave**

(1) Every employee must be granted sick leave on account of sickness or accident for such periods as determined by the Commission.

(2) No employee shall absent himself from duty under a false plea of sickness or accident.

**66 Long service leave**

Long service leave may be available for such class or classes of employee on such terms and conditions as are determined by the Commission.

**67 Bereavement leave**

(1) Employees shall be granted 5 days bereavement leave for immediate family members.

(2) In this regulation, "immediate family" means the spouse, child, mother, father, brother or sister.

**68 Public holidays**

(1) Holidays prescribed by any enactment must be observed in the Service.

(2) Cabinet may declare additional holidays to be observed by members of the Service as "Public Service Holidays".

**69 Forfeiture of employment**

(1) An employee who is absent from duty, or who fails to return to duty, and in either case continues to be absent without permission for a period of 4 weeks or more, forfeits office.

(2) Notice of the effect of this regulation must during such absence, but not sooner than 14 days after the first day of such absence, be sent to the employee by letter or facsimile to the employee's usual or last known place of abode. An employee who returns to duty before the expiration of the week beginning with the day after the date on which notice is so sent or the expiration of 4 weeks absence from duty, whichever is the later, does not forfeit office under paragraph (1).



(3) If the employee subsequently satisfies the Commission that there was a valid reason for the absence and for the failure to inform the Commission earlier of that reason, the Commission may reinstate the employee and in such case the employee will be deemed not to have forfeited office, but to have been on leave from the Service during the period of absence.

#### DISCIPLINARY PROVISIONS

#### **70 Compliance with instructions and employee complaints**

(1) Every employee must carry out all lawful instructions given by the controlling officer.

(2) An employee who considers there is ground for complaint arising out of an instruction given in the Service, or harassment, or threatening behaviour from another employee or from any other cause, may report the matter to the Head of Department or to the Commission.

#### **71 Unsatisfactory performance**

Where it is found that the work or conduct of an employee is unsatisfactory but not of such nature as to warrant the taking of disciplinary proceedings before the Commission, the Head of Department or the controlling officer must draw the attention of the employee to his shortcomings and a record of the action taken must be made and copied to the Commission.

#### **72 Allegations for disciplinary action**

(1) Where the Head of Department believes that the work, conduct, behaviour or attitude of an employee is such that disciplinary proceedings should be instituted the Head of Department must report the matter to the Commission, and the report must include all necessary factual evidence.

(2) Where the Commission is in receipt of a substantiated complaint or report from another employee or member of the public, the Commission must request the department for a report on the matter before deciding whether to pursue disciplinary proceedings.

#### **73 Disciplinary proceedings**

(1) Disciplinary proceedings must be instituted if the Commission is satisfied that sufficient evidence exists to act under regulation 72.

(2) Disciplinary proceedings must commence with the Commission serving the employee with written notice of the complaint, stating whether by act or omission the employee has –

- (a) Behaved in an improper manner in carrying out official duties; or
- (b) Behaved in a manner that has affected or is likely to adversely affect the performance of his duties; or
- (c) Behaved in a manner that has brought or is likely to bring the Service into disrepute; or
- (d) Failed to comply with these Regulations.

(3) The employee must reply to the Commission in writing within a reasonable time to be specified in the notice, stating –

- (a) Whether the truth of the complaint is admitted or denied; and,
- (b) Any further explanation that the employee wishes to make in respect to the complaint.

(4) If the employee does not deny the truth of the complaint or decides not to reply to the notice within the time specified, the employee is deemed to have admitted the truth of the complaint.

(5) The Commission must then proceed to consider and determine the matter taking into account any reply, together with the report by the department and such other reports as may have been obtained that are relevant.

(6) If, after the expiry of the time specified, and the employee has in writing denied the truth of the complaint, the Commission decides that the complaint should be investigated it may appoint a person or persons specifically for that purpose, and that person or persons must hold an inquiry into the complaint.

(7) The person or persons appointed under paragraph (6) may summon and examine on oath any person, including the employee, whose evidence may be necessary or material.

(8) The employee in respect of whom the complaint is made is entitled to be present at all times during the enquiry and may be represented by counsel or an agent or the Service Organisation and shall be entitled either personally or through an adviser to make representations, call evidence (including giving evidence personally), and cross-examine other witnesses who give evidence, in respect of the complaint.

(9) After holding the inquiry, the person or persons appointed under paragraph (6) must report to the Commission on whether or not the inquiry is of the opinion the complaint is true or untrue, and must also forward to the Commission a copy of all evidence taken at the enquiry.

(10) If the truth of the complaint is admitted by the employee, or if the Commission after consideration of the reports relating to the complaint and any reply or explanation furnished by the employee and the department, and after such further investigation or inquiry (if any) as is considered necessary, is satisfied as to the truth of the complaint, the Commission may, after taking into account the service record of the employee, impose one or more of the penalties contained in regulation 75.

(11) If, in respect of any complaint made against an employee, the Commission does not find the complaint against the employee established, the employee must be declared to be not guilty and must be notified by the Commission in writing accordingly.

(12) The Commission must within 14 days of deciding any complaint against an employee under this regulation, notify the employee in writing of the decision.

(13) The procedure for dealing with a disciplinary matter in the case of a Head of Department is the same as for other employees.

(14) In the case of a disciplinary matter concerning the Secretary to the Government the Commission, using the same procedures, may institute disciplinary proceedings either at the request of the Premier, or at its own initiative.

#### **74 Conviction for offence**

(1) An employee who has been convicted of a criminal offence in Niue or elsewhere must notify his Head of Department who must in turn notify the Commission.

(2) In determining whether disciplinary proceedings should apply to an employee convicted of an offence, the Commission must take into account the nature and seriousness of the criminal offence and the penalty imposed by the court.

**75 Penalties**

(1) Subject to paragraph (2), if an employee is convicted of an offence, or if the Commission is satisfied of the truth of the allegations made in a notice under regulation 73 against an employee, the Commission may –

- (a) Dismiss the employee without notice forthwith; or
- (b) Dismiss the employee with notice; or
- (c) Assign the employee to other duties; or
- (d) Reduce the salary of the employee; or
- (e) Reprimand and warn the employee; or
- (f) Put the employee on probation for a specified period.

(2) The Commission may impose one or a combination of more than one of the above penalties, but where an employee is dismissed, the Commission may not impose additional penalties.

**76 Suspension**

(1) An employee who for the time being is considered by the Head of Department to be unfit to perform his duties properly shall be suspended from duty by the Commission until the employee is, in the opinion of the Head of Department and the Commission again capable of performing his duties effectively.

(2) An employee who has been charged with a criminal offence punishable by imprisonment for a term of one year or more, must be suspended from duty by the Commission until the matter has been determined.

(3) An employee who has been served with a notice of complaint under regulation 73 may be transferred to another position or be suspended from duty by the Commission pending the determination of the complaint.

(4) The Commission may at any time revoke any suspension made under this regulation if the circumstances warrant.

(5) Suspension under this regulation may be with or without pay as the Commission determines.

(6) Unless the Commission otherwise directs, an employee who has been suspended under paragraph (2) without pay and is subsequently found not guilty of the offence, whether it is criminal or a disciplinary proceeding to which the suspension relates or the allegations against the employee are not proved, must be paid any loss of earnings suffered while so suspended.

**77 Incriminating questions**

(1) No employee may refuse to answer a question properly asked under these Regulations solely on the grounds that it could lead to disciplinary proceedings being taken against himself or another employee.

(2) An employee who refuses to answer incriminating questions is entitled, before answering any questions, to consult a lawyer, or a Service Organisation representative, or any other person.

## APPEALS

**78 Right of appeal of permanent employee**

(1) Only permanent employees have a right of appeal and an appeal may be made –

- (a) Against any determination of the Commission to appoint any person other than an employee or to promote any employee to a position on the permanent staff with a higher salary grade than that of the appellant;

- (b) Against a decision of the Commission made under regulations 72 and 73 that a complaint is established;
  - (c) Against a review of grading under regulation 35(4).
- (2) The Appeals Committee shall hear all appeals made under these Regulations.

#### **79 Situation where no appeal lies**

Notwithstanding regulation 78 no appeal may lie against any determination of the Commission –

- (a) Transferring an employee from one position to another at his existing salary and grade pursuant to regulations 16 and 55; or
- (b) Appointing a person to a position for which the intended appellant himself had not applied; or
- (c) Appointing a person as a contract or temporary employee; or
- (d) In respect of the position of the Secretary to the Government.

#### **80 Appeals Committee**

(1) The Public Service Appeals Committee established under the Niue Public Service Regulations 1979 is continued in accordance with these Regulations.

- (2) The Appeals Committee must consist of –
  - (a) A Chairperson to be appointed by Cabinet;
  - (b) An employee or retired employee appointed as official member by the Commission;
  - (c) An employee appointed by the Commission on the nomination of the Service Organisation.
- (3) No member shall act on the Appeals Committee in any appeal affecting an employee of the department in which the member is an employee, or in any appeal affecting himself, a friend, a relative or associate.
- (4) Public notice shall be given of every appointment to the Appeals Committee.
- (5) Each member is to be paid such remuneration as the Cabinet determines on the recommendation of the Commission.

#### **81 Appeals Committee procedures**

(1) A person who wishes to appeal a determination of the Commission may lodge a notice of appeal with the Commission within 14 days after the Commission's determination has been made known.

(2) The Commission must, within 7 days of its receipt, forward to the Chairperson of the Appeals Committee a notice of appeal lodged in accordance with these Regulations.

(3) The Appeals Committee must sit at such place and at such time as determined by its Chairperson.

(4) The Appeals Committee must determine its own procedures and may receive such evidence in such manner as it thinks fit, whether or not that evidence would be admissible in a court of law.

(5) After it has considered an appeal, the Appeals Committee must convey in writing to the Commission its findings stating –

- (a) Whether the appeal should be allowed or disallowed; and,
- (b) Whether, in the case of an application for a review of grading, the grading of the applicant should be adjusted or not.

(6) The Appeals Committee may add to its findings any recommendation or comment it thinks appropriate.

(7) If any appeal is, in the opinion of the Appeals Committee, frivolous or vexatious, the Committee shall dismiss the appeal and may in any such case require the appellant to pay to the Government all or such part as the Committee may specify, of the costs of the appeal.

## **82 Appeal decision**

(1) The Commission must notify the appellant of the findings and recommendations of the Appeals Committee together with the decision of the Commission on the findings.

(2) The Commission's decision on the appeal is final.

### TRANSITIONAL AND REPEAL PROVISIONS

## **83 Transitional provision**

The transition from the Niue Public Service Regulations 1979 to the Niue Public Service Regulations 2004 is provided for in the Schedule.

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### SCHEDULE (Regulation 83)

#### TRANSITIONAL PROVISIONS

**1** These Regulations take the place of the Niue Public Service Regulations 1979. They provide for the management, work conditions and employment rules of the Service in accordance with the Constitution.

**2** (1) All employees appointed after the commencement of these Regulations shall be governed by these Regulations.

(2) Employees appointed before the commencement of these Regulations shall be governed by these Regulations unless otherwise specified in this Schedule, but in no case on terms less favourable than those that applied to them immediately before the commencement of these Regulations.

**3** (1) Employees in specified offices at the commencement of these Regulations shall continue in their current office on the terms and conditions agreed under the revoked Regulations that applied to them immediately before the commencement of these Regulations.

(2) If the term of appointment to a specified office was for an agreed period of time, the holding of that office shall terminate at the time then agreed.

(3) On the termination of the period under paragraph (2) the Commission shall, if the office remains an office of the Service, advertise the vacancy, or reappoint the employee to the office.

(4) The employee whose term has expired and who has not been reappointed may apply for the vacancy and may, in accordance with these Regulations, be reappointed to it by the Commission.

(5) The employee whose term has expired and who has not applied or not been reappointed shall –

(a) Continue in the Service under these Regulations, and

(b) In such office as the Commission directs, and

(c) On conditions not less favourable than those that applied to the employee in the exercise of the specified office.

(6) An employee whose term in a specified office has expired shall, if the office ceases to be an office in the Service shall –

- (a) Continue in the Service under these Regulations,
- (b) In such office as the Commission directs, and
- (c) On conditions not less favourable than those that applied to the employee in the exercise of the specified office.

4 Any disciplinary proceedings commenced before the entry into force of these Regulations shall continue in accordance with the requirements of the revoked Regulations.

5 (1) Any disciplinary proceeding commenced after the entry into force of these Regulations shall be conducted in accordance with these Regulations.

(2) If the proceedings relate to a matter or incident that occurred before the commencement of these Regulations the proceedings shall be conducted under these Regulations but no greater penalty shall be imposed on the employee than that which could have been imposed under the revoked Regulations.

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# AGRICULTURE QUARANTINE

## ANIMAL QUARANTINE (DISEASE CONTROL) REGULATIONS 1991

1991/2 – 1 September 1991

1 Title	6 Dealing with endemic or foreign diseases or
2 Interpretation	pests
3 Powers of authorised officers	7 Offences and penalties
4 Eradication of endemic diseases or pests	
5 Preventing foreign disease outbreaks	

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### 1 Title

These are the Animal Quarantine (Disease Control) Regulations 1991.

### 2 Interpretation

(1) In these regulations –

“authorised officer” means a Quarantine Officer, Livestock Officer or other person authorised by the Director of Agriculture to act under these Regulations;

“Director” means the Director of Agriculture;

“endemic disease or pest” means an animal disease or pest which is known to be present in Niue;

“foreign disease or pest” means an animal disease or pest which is not known to be present in Niue;

“Minister” means the Minister of Agriculture.

(2) Terms and expressions defined in the Agriculture Quarantine Act 1984 shall, when used in these Regulations, have the meanings so defined unless the context otherwise requires.

### 3 Powers of authorised officers

An authorised officer may –

- (a) Direct that the owner or person-in-charge of any animal gather and restrain the animal for the purpose of examination, testing, medication, vaccination or other measure which is considered necessary for the diagnosis of disease or pests or the prevention of the occurrence or the spread of disease or pests;
- (b) Apply to an animal any diagnostic tests for disease or take tissue or other specimens from an animal for the purpose of diagnostic tests;
- (c) Kill any animal which is diseased or suspect to be diseased for the purpose of conducting an autopsy or obtaining specimens for diagnostic purposes;
- (d) Direct that an animal or animal product which is diseased or is suspected of being diseased or infected be isolated from other animals or animal products or one from the other;

- (e) Direct that any herd or flock of animals suspected of being diseased or infected by pests, be placed in quarantine;
- (f) Direct that any land that contains or has contained any animal suspected of being diseased or infected, or pests, be placed in quarantine;
- (g) Direct that any animal or herd or flock of animals be medicated, vaccinated, managed or otherwise dealt with in order to prevent the occurrence of or to eradicate or control, or to minimise the spread of any disease or pest;
- (h) Direct that any land, premises or conveyance be cleaned, disinfected or treated in a specified way.

#### **4 Eradication of endemic diseases or pests**

Where the Director with the approval of the Minister is of the opinion that a disease or pest already present in Niue should be controlled or eradicated, the Director may cause –

- (a) The owner or person-in-charge of any animals to gather together those animals as often as may be specified and restrain them in suitable facilities so that an authorised officer can examine, identify, medicate, vaccinate, and sample the animals or subject them to diagnostic tests;
- (b) Any animal which is found to be diseased or infected or affected by pests to be medicated or destroyed or otherwise disposed of;
- (c) Any land, premises or goods exposed to diseased or infected animals or harbouring pests to be treated or disposed of in a specified manner.

#### **5 Preventing foreign disease outbreaks**

If it seems to the Minister likely that a foreign animal disease or pest has been or may be introduced into Niue, the Minister may –

- (a) Impose prohibitions or restrictions on the movement of animals, animal products, fodder, fittings and other things as may be specified, into, out of, or within any part of or the whole of Niue;
- (b) Cause animals of a designated type to be medicated, vaccinated, restrained, fed or otherwise managed in a specified manner;
- (c) Cause land, premises, conveyances or other thing to be destocked, cleaned, disinfected or otherwise treated or their use prohibited totally.

#### **6 Dealing with endemic or foreign diseases or pests**

(1) If an authorised officer has reasonable cause to believe that any animals on any land or in any premises are diseased or infected or affected by pests he may quarantine that land by issuing an Infected Place Notice to the owner or person-in-charge of the land.

(2) Whilst any land is subject to an Infected Place Notice, no animal, animal product, animal excreta, fodder, fittings or other thing as may be specified in the notice may be moved off that land without the permission of an authorised person and subject to conditions which he may specify.

(3) An authorised officer may medicate, vaccinate or destroy any diseased or infected animal; and order the cleaning, disinfection or other treatment of premises, conveyances or other things in an infected place.

(4) Subsequent to an infected place being declared, the Director may declare a disease control area including that infected place and comprising part or the whole of Niue.

(5) Whilst a disease control area is in effect, no animal, animal product, fodder, fitting or other thing as may be specified in the declaration may be moved out of, into or within the disease control area without the permission of an authorised person and subject to such conditions as may be imposed.

(6) Any wild or feral animal the presence of which is or may be detrimental to the effective control of an animal disease or pest may be eliminated by authority of the Director acting with the approval of the Minister.

## **7 Offences and penalties**

(1) Every person commits an offence who acts in contravention of any of these regulations, or who fails to observe a reasonable direction of the Minister of Agriculture, Director or other authorised officer under these regulations.

(2) Every person who commits an offence against these regulations is liable upon conviction to a fine not exceeding 5 penalty units or to a term of imprisonment not exceeding 12 months, or to both such fine and imprisonment.

## ANIMAL QUARANTINE (FEES) REGULATIONS 1991

1991/3 – 1 September 1991

### 1 Title

These are the Animal Quarantine (Fees) Regulations 1991.

### 2 Fees

There shall be payable in respect of the matters set out in the First Column of the Schedule, the fees set out opposite those matters in the Second Column of the Schedule.

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#### SCHEDULE

Application to import animal or semen or ova of an animal	\$10.00
Grant of permit to import animal or semen or ova of an animal	\$10.00
Application for permit to import animal products	\$10.00
Grant of permit to import biological products or organisms	\$10.00

## AGRICULTURAL QUARANTINE PHYTOSANITARY CERTIFICATE (FEES) REGULATIONS 1993

1993/1 – 1 July 1997

### 1 Title

These are the Agricultural Quarantine Phytosanitary Certificates (Fees) Regulations 1993.

### 2 Fees

There shall be payable in respect of the matters set out in the First Column of the Schedule the fees set out opposite those matters in the Second Column of the Schedule.

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#### SCHEDULE

Phytosanitary certificate for one package	\$6.00
Inspection charges for each additional package in excess of one	\$1.00 for each package

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## AGRICULTURE QUARANTINE (PREVENTION OF ANIMAL DISEASE) REGULATIONS 1991

1991/4 – 1 September 1991

<p>1 Short title</p> <p>2 Interpretation</p> <p>3 Importation of animals</p> <p>4 Importation of certain animals prohibited</p> <p>5 Importation of animal products, biological products and organisms</p> <p>6 Importation of vehicles</p> <p>7 Introduction of fodder, crates</p> <p>8 Introduction of animal excreta</p>	<p>9 Further action may be directed</p> <p>10 Disposal of garbage</p> <p>11 Stores not to be introduced</p> <p>12 Disinfection</p> <p>13 Feeding of pigs and poultry</p> <p>14 Management of rubbish dumps</p> <p>15 No liability to Crown</p> <p>16 Offences and penalties</p>
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### 1 Title

These are the Agriculture Quarantine (Prevention of Animal Disease) Regulations 1991.

### 2 Interpretation

Terms and expressions defined in the Agriculture Quarantine Act 1984 shall, when used in these regulations, have the meanings so defined unless the context otherwise requires.

### 3 Importation of animals

(1) No animal, or semen or ova of an animal shall be imported into Niue, except pursuant to and in accordance with the terms and conditions of a permit issued by or under the authority of the Director.

(2) Every person wishing to import an animal or semen or ova of an animal shall apply in writing to the director for a permit to import such animal semen or ova, such application to be in such form as may from time to time be required by the Director.

(3) The Director may approve or refuse any application made under paragraph (2), or may approve such application subject to such conditions as the Director thinks fit to impose.

(4) Without limiting the generality of the Director's discretion to impose conditions under paragraph (3), such condition may include conditions relating to –

- (a) Origin and general health;
- (b) Diagnostic tests, medication or vaccinations;
- (c) Periods of, or type of quarantine to be observed in the country of origin, or in transit to or within Niue;
- (d) Such post-entry conditions as the Director thinks fit in relation to quarantine (location and period) diagnostic tests, medication and vaccinations as the Director may require.
- (e) Such other requirements as in the opinion of the Director are necessary to prevent the introduction of animal diseases or pests.

(5) Every person who imports an animal, or semen or ova of an animal otherwise than under the requirements of this section commits an offence and shall on conviction be liable to a fine not exceeding 5 penalty units.

(6) Upon a conviction being entered under paragraph (5), the Court may, in addition to any other penalty, order the animal, semen or ova as the case may be, to be re-shipped to the country of origin or destroyed or otherwise disposed of at the expense of the importer as the Court may specify.

(7) Notwithstanding any other provision of this clause, the Director may at any time order the re-shipment destruction or disposal of any animal, semen or ova of an animal which has been imported into Niue where the Director is of the opinion that notwithstanding any quarantine, vaccination or other precaution that may have been taken, the animal, semen or ova is likely to introduce disease into Niue.

#### **4 Importation of certain animals prohibited**

Notwithstanding any other provisions of these Regulations, the Director shall not issue a permit for the import of any animal, or semen, or ova of an animal which in the opinion of the Director is venomous, environmentally damaging, or is or is likely to be a nuisance in Niue.

#### **5 Importation of animal products, biological products and organisms**

(1) No animal product, biological product, or organism shall be imported into Niue except pursuant to and in accordance with the terms and conditions of a permit issued by or under the authority of the Director.

(2) Every person wishing to import an animal product, biological product or organism shall apply in writing to the director for a permit such animal product, biological product or organism, such application to be in such form as may be required by the Director.

(3) The Director may approve or refuse any application made under paragraph (2), or may approve such application subject to such conditions as the Director thinks fit to impose.

(4) Without limiting the generality of the Director's discretion to impose conditions under paragraph (3), such conditions may include conditions relating to –

- (a) Origin and general health;
- (b) Diagnostic tests, treatment and storage (including packaging);
- (c) Periods of, or type of quarantine to be observed in the country of origin, or in transit to or within Niue;
- (d) Such post-entry conditions as the Director thinks fit in relation to diagnostic tests, packing, and quarantine (location and period) as the Director may require;
- (e) Such other requirements as in the opinion of the Director are necessary to prevent the introduction of animal diseases or pests.

#### **6 Importation of vehicles**

(1) No vehicle, farm implement or equipment, goods or chattels of any kind which have been on a farm or used in connection with animals or animal products shall be imported into Niue unless –

- (a) Properly cleaned in the country of origin; and
- (b) Accompanied on arrival in Niue by a certificate of treatment in a form approved by the Director which indicates to the satisfaction of the Director that the goods have been so cleaned.

(2) Notwithstanding paragraph (1), the Director may require any goods to which this section applies, to be cleaned prior to release in Niue where the Director is of the opinion that the goods have not been properly cleaned prior to arrival.

## **7 Introduction of fodder, crates**

(1) No animal fodder, crate, harness, bedding or goods of any kind which have accompanied or been used or have come into contact with any animal product, biological product or organism shall be imported into Niue except with the approval of the Director, and under the terms and conditions imposed by the Director.

(2) In granting any approval under paragraph (1), the Director may impose such terms and conditions as the Director thinks fit, including terms and conditions relating to the treatment, disinfection, destruction or other disposal of the goods.

## **8 Introduction of animal excreta**

(1) No animal excreta, urine or other secretion, hair or other tissue shall be imported into Niue except with the approval of the Director, and under the terms and conditions imposed by the Director.

(2) In granting any approval under paragraph (1), the Director may impose such terms and conditions as the Director thinks fit, including terms and conditions relating to the treatment, disinfection, destruction or other disposal of the goods.

## **9 Further action may be directed**

Notwithstanding any other of these Regulations, the Director may on the importation of any animal or any time thereafter, require any examination, diagnostic testing, medication, vaccination or other action in respect of the imported animal or its progeny, or its destruction; or any treatment, fumigation or sterilisation of any animal product or biological product or organism, or its destruction; or any cleaning, disinfection or other treatment of any equipment, vehicles, conveyances, fittings, clothing, goods or other things that have been or may have been in direct or indirect contact with any animal, or their destruction, if in the opinion of the Director there are reasonable grounds for doing so for the purpose of preventing the introduction of disease or pests into Niue.

## **10 Disposal of garbage**

(1) No person shall permit any refuse or garbage, or material which has been in contact with refuse or garbage, to be unloaded from a ship, aircraft or other conveyance arriving in Niue from any other country unless such refuse garbage or material is handled, incinerated and treated, or otherwise disposed of in a manner approved by the Director, acting in consultation with the Director of Health.

(2) The cost of handling, incineration treatment or other disposal under paragraph (1), may be recovered from the owner, operator, charterer, or agent of any such person, of the ship or aircraft.

(3) Except as provided in paragraph (1), no refuse, garbage or rubbish from any conveyance shall be disposed of in the territorial waters of Niue.

## **11 Stores not to be introduced**

(1) No person shall –

- (a) Introduce or permit to be introduced into Niue, meat and eggs or other food containing material of animal origin that constitute food provisions of ships, aircraft or other conveyances; or
- (b) Use or permit to be used such meat, eggs or other food as aforesaid as bait for fishing; or
- (c) Dispose or permit to be disposed of such meat eggs or other food into the territorial waters of Niue.



(2) The Director may require that the lockers or food stores of a ship or aircraft be sealed whilst on Niue or within Niuean territorial limits, to ensure compliance with paragraph (1).

## **12 Disinfection**

(1) The Director may require any ship, aircraft or other conveyance arriving in Niue to be treated, cleaned or disinfected or disinfected or fumigated as the Director considers necessary to prevent the possible introduction of disease or pests.

(2) The cost of the treatment, cleaning, disinfection, disinsection or fumigation may be recovered from the owner, operator, charterer, or agent of the conveyance as a debt due to the Crown.

## **13 Feeding of pigs and poultry**

(1) The Director may prescribe measures for the management and control of pigs and poultry, including containment, feeding, medication, vaccination or other measures which the Director considers necessary to prevent the introduction or spread of disease, parasites or pests.

(2) The Director may require that before feeding to pigs or poultry all garbage, kitchen scraps, waste food and the like, or other food containing or consisting of meat or fish or other animal products, from hotels, motels, hospitals, prisons, restaurants, food bars, and like sources be heat treated to the extent prescribed, or otherwise treated in a manner approved by the Director as the Director considers necessary to prevent the introduction or spread of disease or parasites.

## **14 Management of rubbish dumps**

The Director may require the owner, occupier or user of a rubbish dump to ensure that the rubbish dump is covered regularly or fenced off or otherwise managed in such a way as to minimise pigs, poultry or dogs gaining access to refuse or rubbish which contains meat, or other animal products or animal carcasses.

## **15 No liability to Crown**

(1) No cost to an owner, operator, charterer or agent in carrying out any requirement of these Regulations shall be recoverable from the Crown.

(2) If any owner, operator, charterer or agent fails to carry out any requirement of these Regulations the Director or a Quarantine Officer may arrange for the necessary work to be done and recover the cost from the owner, operator, charterer or agent as a debt due to the Crown.

## **16 Offences and penalties**

(1) Every person who fails to comply with or acts in contravention of any provision of these Regulations commits an offence.

(2) Every person who fails to obey a direction given by the Director, a Quarantine Officer or other authorised officer or his assistant under these Regulations, or who fails to provide truthfully and fully any information pertinent to these Regulations required of him by the Director or a Quarantine Officer, commits an offence.

(3) Every person who commits an offence against any of these Regulations is liable on conviction to a fine not exceeding 5 penalty units or a term of imprisonment not exceeding 12 months, or to both such fine and imprisonment.



- “fruit” means the edible product of any plant whether attached to the plant or not and includes any peel, skin, shell or seeds, whether edible or not, as well as vegetables;
- “goods” has the same meaning as in section 2 of the Act;
- “import” has the same meaning as in section 2 of the Act;
- “infected” has the same meaning as in section 2 of the Act;
- “land” has the same meaning as in section 2 of the Act;
- “noxious weed” means a plant declared by Cabinet to be harmful and subject to quarantine control;
- “owner” means the person, corporate body or organisation, responsible for plants, plant material, pests, diseases, goods or soil, because he, she or it is the owner or the owner’s agent or the person to whom these are consigned, or by whom they are being exported or the person, corporate body or organisation in charge of the conveyance in which plants, plant material, goods, pests, diseases or soil are being carried or have been carried;
- “permit” has the same meaning as in section 2 of the Act;
- “pest” has the same meaning as in section 2 of the Act;
- “plant” has the same meaning as in section 2 of the Act;
- “plant material” has the same meaning as in section 2 of the Act;
- “phytosanitary certificate” means an official certificate issued by an authorised quarantine officer, substantially in the format of the Model Certificate of the International Plant Protection convention, attesting that the plant, to which it refers, has been inspected and found free from quarantine pests and substantially free from other injurious pests;
- “quarantine area” means any land where a specified adjoining land by the Cabinet to be a quarantine area (for a prescribed period of time);
- “quarantine pest or disease” means a pest or disease of potential national economic importance to the country endangered thereby and not yet presented there or present but not widely distributed and being actively controlled;
- “quarantine officer” means any officer appointed under section 4 of the Act and includes an assistant;
- “packing material” has the same meaning as in section 2 of the Act;
- “refuse” has the same meaning as in section 2 of the Act;
- “regulated material” means such plants, plant material, garbage, soil and other items that come within the provision of the Act;
- “re-export” means to remove or ship plant material from Niue as a means of removing the pest and disease risk;
- “soil” has the same meaning as in section 2 of the Act;
- “timber” means logs, poles, dunnage, branchwood, firewood, bark and all wood which has been split, hewn, sawn or dressed but not otherwise manufactured and includes pre-fabricated building units, shakes, shingles, and wooden cases or boxes;
- “treatment” has the same meaning as in section 2 of the Act.

## PART 1

### GENERAL REQUIREMENTS

#### 3 Points of entry

No plant material or other regulated material may be imported into Niue except through the port of Alofi, the Hanan International Airport, the Post Office at Alofi, or such other places as may be notified by the Cabinet.

**4 Inspection of plant or non-plant material**

(1) All plant material, all fruit and vegetables or any other plant or any goods the entry of which presents a risk of pest or disease to Niue in the opinion of the quarantine officer and if necessary, shall be subject to treatments for the prevention of entry of disease or pest or if necessary, shall be subject to destruction or re-exported to the country of origin as the case may be.

(2) All treatments are performed at the risk of the importer or his agent.

(3) Any goods include all passenger's baggage, personal effects and clothing as well as vehicles, containers, drums and anything liable to carry a pest or disease of plants.

**5 Requirements of all persons entering Niue in possession of plant material and regulated material**

(1) Every person arriving from overseas shall be required to make a declaration in respect of plants, plant material, soil, culture or any other thing the subject of these Regulations.

(2) No person shall introduce into Niue any plant, plant material, or any other thing the subject of these Regulations unless these Regulations have been duly complied with in respect of plant material or other regulated material.

**6 Placement in quarantine**

Where a quarantine officer is not satisfied that the imported plants, plant material or goods are free of diseases and pests, which, in his opinion constitute a risk to Niue, he shall advise Customs that the plants, planting material or goods are to be held under Customs and Post Office control until such time as the quarantine officer is satisfied that the disease or pest has been eliminated.

**7 Treatment**

Where a quarantine officer has detained imported plants, plant material or goods on the evidence of infection, or suspected infection he may order a treatment as prescribed at the importer's expense.

**8 Release of plants, plant material or goods**

Provided all other requirements of these Regulations for the imported plant, plant material or goods have been met and subsequent to satisfactory inspection or satisfactory conclusion of a treatment as prescribed, the quarantine officer shall advise Customs and Post Office that all requirements of these Regulations have been met and that the imported plants, plant material or goods may be released to the importer or owner.

**9 Transport, storage, unpacking, treatment**

Prior to the release of any imported plant, plant material or goods the importer or owner may be required by the Director to provide for or meet the cost of transport, unpacking, security storage, and treatment as prescribed including cleaning and sorting.

**10 Seizure and destruction**

Any illegally imported plant, plant material including seeds, fruits, and vegetables or regulated material without a permit may be seized by a quarantine officer and treated by destruction by order of the senior quarantine officer.

**11 Disposal of plant material**

Any plant, plant material or goods imported under these Regulations but on examination or re-examination the quarantine officer is satisfied that the plant, plant material or goods is carrying or liable to be carrying a pest or disease and in his opinion cannot be effectively treated to eradicate the pest or disease and if, within a specified period of notification designated by the Director, the importer has not re-exported or re-shipped the plant, plant material or goods the Director shall order the destruction of the consignment of imported plants, plant material or goods.

**12 Inspection and treatment of conveyances**

(1) Immediately on the arrival of any conveyance from any overseas country, the conveyance together with its cargo and baggage may be inspected, examined, and ordered for treatment by a quarantine officer and no person shall enter the conveyance or remove any baggage or cargo from the conveyance without the authority of the quarantine officer until the inspection, examination or treatment is completed.

(2) The inspection and treatment may include inspection of conveyance, its cargo and stores as well as treatment if necessary at the expense of the owner of the conveyance and the spraying of every compartment of any conveyance as prescribed.

**13 Applications for permits**

(1) Applications for permits to import shall require specific information including –

- (a) Full name, residential address and postal address of the importer;
- (b) Name and address of exporter or persons from whom plant or plant material will be obtained;
- (c) Quantity and name (botanical name if approximate) of all material proposed to import;
- (d) Mode of transport, point of entry and approximate date of arrival.

(2) In granting any permits the Director shall give approval to import and indicate conditions to be met to satisfy quarantine requirements.

**14 Plant quarantine forms**

The Director may devise such forms which are to be used by importers desiring to import plant or plant material.

**15 Official introduction by Government**

(1) Official importations by the Director are exempt from the prohibitions and restrictions hereafter in these Regulations.

(2) Such importations are to be subject to measures prescribed by the Director to ensure absolute prevention of entry and dissemination of pests and diseases.

**16 Permit to land**

A quarantine officer may issue a permit to land for any plants, plant material or goods to enable inspection and treatment for quarantine purposes to be undertaken.

**17 Quarantine for live plants**

In lieu of post entry quarantine for live plants the Director may prescribe a period of intermediate quarantine at an approved location overseas where the plant material is to be established and screened as if undergoing post entry quarantine.

**PART 2****ENTRY OF PLANTS, PLANT MATERIAL, PESTS, GOODS****18 Entry of plant material capable of growth**

(1) The entry of plants and planting material including cuttings, budwood, stocks, tubers, corms, bulbs, suckers other than seed is limited to the smallest quantity of propagating material consistent with good horticultural practices and satisfactory establishment of the introduced cultivar.

(2) No live plants or planting material shall be introduced unless a permit has been obtained from the Director in advance of arranging the import.

(3) Plants which have satisfactorily cleared intermediate quarantine at an approved overseas location may be approved for import into Niue provided they are free of soil, fumigated on arrival and established at an approved place.

(4) When the Director is satisfied that the imported plants are free of pest and disease he may release them to the importer.

**19 Entry of seed**

(1) No agricultural or forest tree seed, except commercially packed flower and vegetable seed other than tomato seed, and bean shall be introduced unless a permit from the Director has been obtained.

(2) The entry of forest tree species is restricted to seeds which are inspected and treated as prescribed.

(3) (a) All seed shall be free from injurious extraneous matter including notified noxious weeds and shall be subject to such conditions as the Director considers fit to require.

(b) All seed except flower and vegetable seed other than tomato and bean shall be accompanied by a phytosanitary certificate and other specified accompanying documentation may include a seed analysis report from the country of origin specifying extraneous foreign seeds and materials.

(c) Upon arrival samples of seed may be taken for examination and if necessary, in the opinion of the quarantine officer, treatment shall be applied as prescribed.

(4) Seeds of annual crops with specifically restricted entry, such as peanuts and maize, are to be grown overseas at an approved intermediate quarantine and only seed produced in intermediate quarantine with no evidence of disease is to be imported for release.

(5) Seeds such as citrus, coffee, coconut, cassava, sweet potato, taro, provided they are from reliable sources approved by the Director, may be imported, treated as directed prescribed, and grown at a location approved by the Director prior to release.

(6) Seeds of tomato should be treated as prescribed before release.

(7) Seeds of beans (*Phaseolus* spp) may be required to have a certificate of freedom from seed borne diseases.



**20 Entry of fruits and vegetables**

- (1) (a) A permit must be obtained in advance for each importation of admissible fresh fruit and vegetables.
- (b) Admissibility of fresh fruit and vegetables will be determined by the Director when an application for a permit is submitted.
- (c) Entry status will be determined according to the pests present in the exporting country.
- (2) Importation of susceptible soft fleshy fruits and vegetables is prohibited from all countries or parts of countries where dangerous fruit flies are known to occur unless satisfactory treatments can be undertaken.
- (3) Upon arrival any admissible fresh fruit and vegetables shall be examined by a quarantine officer and if a pest or disease is detected treatment as prescribed shall be applied before the fruit or vegetables are released to the importer.
- (4) Fresh fruit and vegetables without permits are to be seized and destroyed.
- (5) Frozen fruits and vegetables as well as canned or hermetically preserved fruit and vegetables are admissible without permit.
- (6) Dried or candied fruits and nuts and vegetables that have been prepared in such a manner as to make them innocuous as pest carriers and are not otherwise prohibited may enter without permit subject to inspection for verification of their condition and freedom from pests.

**21 Entry of timber**

- (1) Any timber imported from overseas shall be inspected for pests and contamination.
- (2) Where pests of concern or contamination such as bark are detected, treatment as prescribed shall be required by the quarantine officer.
- (3) All treatments shall be undertaken at the expense of the owner, importer or agent and to the satisfaction of the quarantine officer before release from quarantine is authorised.

**22 Entry of cut and dried flowers**

- (1) Subject to these Regulations any cut flower, including foliage, may be imported, if on inspection at the point of entry for the cut flowers are free from pests and to contain no material capable of propagation.
- (2) Subject to these Regulations any dried flower, including foliage, may be introduced, if on inspection at the point of entry for the dried flowers are free from pests but no dried flower of a plant producing agricultural seed or any plant specifically prohibited or restricted under these regulations shall be introduced.

**23 Entry of plant material not capable of growth**

The entry of any plant material or plant product, particularly or wholly manufactured, assessed by the Director as a potential carrier for an exotic serious pest to agriculture or forestry in Niue is subject to permit, inspection and treatment as prescribed if treatment is found necessary.

**24 Entry of soil**

- (1) No person shall import any soil whether by itself or with any plant material or as packing material in any form or adhering to any goods including vehicles and machinery unless the quarantine officer is satisfied that the soil will not introduce any pest.



(2) Notwithstanding paragraph (1) peat, free of contamination with soil, may be admitted subject to inspection.

(3) Soil used in any conveyance as ballast is to be discharged under the directions of the Director or as prescribed.

**25 Entry of non-plant articles**

Non-plant articles contaminated with soil or infested with pests are subject to such treatments, including cleaning, as directed by the Director or as prescribed.

**26 Vessels from areas where rhinoceros beetle occurs**

(1) Every ship arriving at Niue from any area infested by the Rhinoceros beetle (*Oryctes rhinoceros* /L/) is required to keep at least 1 mile from the encircling reef for at least 15 minutes before sunset until at least 15 minutes after sunrise.

(2) All aircraft arriving at Niue from a country infested by Rhinoceros beetle are obliged to land before sunset except in the case of an emergency.

**27 Entry of pests or cultures**

No person shall import any living culture or organism including parasites, predators, arachnids, molluscs, nematodes, fungi, bacteriat mycoplasma, parasitic plant organism, plant pests or other invertebrate animal unless a specific written permit has been issued by the Director in advance of the importation and only in compliance with conditions imposed by such permit.

**28 Entry of tissue culture of plants**

(1) Tissue cultures of plants may be imported on the basis of a permit from the Director and subject to inspection for contamination on arrival.

(2) Conditions of import may include certification of virus status.

**29 Entry of honey bees**

(1) The entry of all living stages of honey bee (*Apis* spp) shall be limited to entries under permit from the Director under conditions as prescribed.

(2) Entry of used bee keeping equipment, such as hives and frames, is prohibited.

**30 Entry of material for research purposes**

(1) Material imported under permit for research purposes is subject to conditions of entry as stated on the permit issued by the Director.

(2) Conditions prescribed by the Director will be those that offer maximum security against pest or disease dissemination.

**31 Entry of packing material, used or second hand bags and dunnage**

(1) No person shall introduce into Niue as packing any hay, straw, chaff, soil, forest litter or compost.

(2) No person shall receive as packing material any substance except sphagnum moss, woodwool, ground cork, charcoal, shredded paper, perlite, form rubber chips, vegetable fibre free of pulp, granulated plastics or other material approved by the Director.

(3) No second hand or used bags or any such packaging are to be used for the import of any kind of goods.

(4) Any imported timber dunnage is to be treated as prescribed before release or destroyed by incineration.

**32 Entry of handicrafts made from plant material**

If handicrafts do not contain any material prohibited under these regulations, they may enter subject to inspection and treatment as required.

**33 Exclusion of liability**

Neither the Department of Agriculture nor any quarantine officer shall be liable for any loss or damage resulting from the exercise of powers under these regulations unless the loss or damage is caused otherwise than in the reasonable exercise of these powers.

**PART 3****GENERAL PROVISIONS****34 Specific prohibitions and restrictions**

(1) The specific quarantine prohibitions and restrictions contained in the Schedule shall apply in conformity with other conditions prescribed in these Regulations.

(2) Additions may be made by notification from the Cabinet.

**35 Emergency powers**

If the Cabinet by proclamation under the Agriculture Quarantine Act 1984 has declared a state of agriculture emergency throughout all or any part of Niue the emergency measures which may be taken by Cabinet or a person authorised by Cabinet shall include –

- (a) Declaring a specific disease affecting plants (or animals) or pests of plants including noxious weeds to be a quarantine pest or disease;
- (b) Defining a geographical area within Niue as a quarantine area or the whole of Niue as a quarantine area;
- (c) Control by quarantine officers or other authorised persons of the movements of persons, plants, animals or goods into or out of the quarantine area from or to any other part of Niue;
- (d) Authority for the Director to notify in writing to the owner or owners of land the measures to be taken aimed at eradication of the specific quarantine disease or pest and destruction of plants or goods if deemed necessary by the Director;
- (e) Authority for the Department of Agriculture to undertake measures including destruction mentioned in the previous clause if the owner of the land cannot be contacted. The owner shall be obliged to reimburse the Government for the costs incurred;
- (f) Compilation of full details of each case of the owner of land so that compensation, if any, can be properly assessed;
- (g) Provision of a defined period for all the foregoing quarantine measures to operate and provision for extension by Cabinet for further appropriate periods considered necessary.

**36 Export requirements**

(1) An authorised quarantine officer may issue phytosanitary certificates based on inspection of plants and plant material performed at the request of exporters to aid them in meeting the entry requirements of the importing country.

(2) The certificates are to be issued only for plants or plant material produced in Niue.

(3) The issuance of a phytosanitary certificate in no way releases the importer from compliance with any import regulations of the country to which

the plants or plant material are consigned.

(4) The phytosanitary certificate used is to be substantially based on the model adopted by the International Plant Protection Convention of 1951, as amended in 1979.

### 37 Fees

Any treatment or destruction shall be carried out at the expense of the importer at such rates determined by the Director.

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## SCHEDULE

### 1 **Banana, abaca and other "musaceae"**

- (1) The inflow of plants and corms is prohibited.
- (2) Tissue cultures may be imported under permit provided these are accompanied by a phytosanitary certificate certifying freedom from virus including Bunchy top disease.
- (3) (a) Fruit of banana may be imported only with a permit issued by the Director.  
(b) When issuing the permit the Director may stipulate pre-export treatment in the country of origin.

### 2 **Beans (phaseolus spp)**

Seed of Phaseolus spp is prohibited import except by permit of the Director.

### 3 **Cassava (Manihot esculenta) Crantz**

The import of plants of Manihot esculenta Crantz is prohibited except that seed and tissue cultures may be imported under permit issued by the Director.

### 4 **Citrus**

- (1) All planting material including budwood and except fruit and seed is prohibited.
- (2) (a) Citrus fruit is prohibited from all countries where Citrus canker (*Xanthomonas campestris* p.v. *Citri* Hase) Dye occurs.  
(b) Citrus fruit may enter only with a permit granted by the Director, issued under conditions he considers appropriate.
- (3) Citrus seed free of pulp is permitted entry subject to a permit inspection, and treatment as prescribed.
- (4) Citrus includes the following genera: citropsis, citrus, eremocitrus, fortunella, microcitrus, monanthocitrus, pleurocitrus and poncirus.

### 5 **Coconuts (Cocos mucifera L)**

- (1) Import of seedlings and suckers of all the family Palmae is prohibited.
- (2) Import of seednuts and pollen is prohibited except by special permit from the Director.
- (3) Conditions of the permit include selected approved sources, mandatory growth in quarantine and restriction of quantity not to exceed 100 for each line.
- (4) No person shall introduce coconuts for consumption or processing unless the consignment was fumigated at the time of shipment or at destination before delivery as prescribed.

**6 Coffee (coffee spp)**

- (1) All planting material of coffee spp except seed is prohibited.
- (2) Viable seed may be imported under special permit of the Director from specified selected locations for scientific purposes, treated as prescribed by the Director and grown under close surveillance in quarantine.

**7 Ginger (Zingiber officinale Rose)**

All plants of the Zingiberaceae family are prohibited except by permit of the Director.

**8 Mango (Mangifera indica L.)**

All plant material of *Manigera indica* including fruit is prohibited import except by permit of the Director.

**9 Maize (Zea mays L.)**

- (1) All plant material of maize (*Zea mays L.*) except seed is prohibited.
- (2) Seed may be imported only by permit issued by the Director.

**10 Peanut (Arachis hypogaea L.)**

All plant material of *Arachis hypogaea L.* is prohibited except for seed which may be imported only with a permit from the Director.

**11 Sugar cane (Saccharum officinarum L.)**

The import of all plant material including the seed of *Saccharum officinarum L.* is prohibited except by permit issued by the Director.

**12 Sweet Potato (Ipomoea batata L.Lam)**

The importation of plant material of *Ipomoea batatas L. Lam* is prohibited except by permit issued by the Director.

**13 Tomato Lycopersicon esculentum Miller**

The import of seed of *Lycopersicon esculentum Miller* is prohibited except by permit of the Director.

**14 Pineapple (Ananas cosmosus /L/Merrill)**

The import of planting material including the fruit of *Ananas cosmosus (1) Merrill* is prohibited except by permit issued by the Director.

**15 Rubber (Hevea spp.)**

The import of all plant material including the seed of all species of *Hevea* is prohibited.

**16 Taro and other aroids (Alocasia spp. Colocasia spp. Xanthosomas spp. and Cyrtosperma spp.)**

(1) Vegetative planting material is prohibited except by permit issued by the Director with provisions that roots/corms be free of soil, treated and devitalised as prescribed and inspected on arrival.

(2) Seeds and tissue culture may be imported with a permit from the Director under prescribed conditions.

## ARMS

### ARMS REGISTRATION (FEES) REGULATIONS 2005

2005/1 – 24 June 2003

- 1 Title**  
These are the Arms (Fees) Regulations 2005.
  
- 2 Fees for permits and certificates**  
The fees payable for the issue of permits and certificates –  
Permit to import firearm \$80.00  
Certificate to register firearm for the first time \$30.00  
Annual licence \$15.00



# BROADCASTING

## BROADCASTING REGULATIONS 1989

1989/1 – 1 July 1989

1	Title	9	Default in payment
2	Interpretation	10	Fees for other services
3	Sitting allowances for Directors	11	Unregistered users
4	Registration of owners of television installations	12	Offence for unlawful use
5	Register to be kept	13	Powers of Corporation to conduct inquiries
6	Effect of registration	14	Powers of Corporation to take legal proceedings
7	Annual fee for television		
8	Payment of annual fee		

### SCHEDULE

- 
- 1 Title**  
These are the Broadcasting Regulations 1989.
- 2 Interpretation**  
(1) In these Regulations –  
“Act” means the Broadcasting Act 1989;  
“Director” means a Director of the Corporation appointed under section 10 of the Act;  
“person” includes any company, or business or organisation, or other statutory body but does not include the Crown in right of the Government of Niue or any department or office of the Government;  
“television installation” means an apparatus designed to receive by means of electric or electromagnetic energy, either with or without artificial guide, sounds and visual images.  
(2) Subject to paragraph (1), the expressions defined in the Act have the meanings so defined.
- 3 Sitting allowances for Directors**  
(1) Every Director of the Corporation shall be paid an allowance of \$40 per meeting for every meeting that Director attends.  
(2) The allowances payable to the Directors shall be a charge upon the funds of the Corporation.
- 4 Registration of owners of television installations**  
(1) [Spent]  
(2) Any person who becomes an owner or user of a television installation which receives or is being used to receive transmissions from Television Niue shall, as soon as practicable and in no case later than 21 days after the date he



receives transmission from Television Niue, inform the Corporation of that fact for the purposes of having his name registered as a person to which these Regulations apply.

#### **5 Register to be kept**

For the purposes of regulation 4, the Corporation shall keep a register of all persons receiving transmissions from Television Niue.

#### **6 Effect of registration**

(1) Every person registered under the foregoing regulations shall, upon due registration but subject to regulations 7 and 8, acquire the rights to receive transmissions from Television Niue.

(2) A person falling under paragraph (1) is a 'registered user'.

#### **7 Annual fee for television**

(1) Every registered user shall, in respect of acquiring rights to receive television transmissions from Television Niue, be charged an annual fee by the Corporation.

(2) The amount of the annual fee shall be \$260.

#### **8 Payment of annual fee**

(1) The annual fee shall be paid to the Corporation on a quarterly basis, falling due on the 1st day of the months of January, April, July and October in each year.

(2) Every payment shall be made no later than 14 days after the day it is due.

(3) [Spent]

(4) Any registered user who fails to pay the fee on or before the time provided under this Regulation shall, as from the date of such default, be regarded as a person in default to whom regulation 9 apply.

(5) Notwithstanding paragraph (1) any registered user may pay the full annual fee in one instalment.

#### **9 Default in payment**

(1) Any registered user who defaults in payment under regulation 8(1) shall for every day of such default be charged a penalty interest of 2% on the amount due.

(2) Any person who defaults in excess of 21 days shall, on the day immediately after that 21 days no longer be regarded as a registered user, and thereupon, becomes a person to whom regulations 11 and 12 apply.

#### **10 Fees for other services**

For the purposes of advertisements, notices, or other services to be provided by the Corporation, the rates to be charged by the Corporation are those as set out in the Schedule.

#### **11 Unregistered users**

No person, other than a registered user under these Regulations shall have any rights to receive, abstract, or use any television transmission from Television Niue.

**12 Offence for unlawful use**

(1) For the purposes of section 188 of the Niue Act 1966, it is hereby declared that television transmission is a thing capable of being stolen.

(2) Any person who is not a registered user or who is a person to whom regulation 9(2) applies, who knowingly or fraudulently receives, abstracts, or uses television transmission from Television Niue commits theft and upon conviction is liable to punishment as provided under section 192 of the Niue Act 1966.

## POWERS OF CORPORATION

**13 Powers of Corporation to conduct inquiries**

(1) The Corporation shall have the power to conduct inquiries as may be necessary to ensure compliance with these Regulations.

(2) Without limiting the powers of the Corporation under paragraph (1) the Corporation shall have the power to authorise any of its officers to –

- (a) Enter any place, premises or building;
- (b) Obtain information from any person or occupant of such place, premises or building;
- (c) Conduct any tests to ascertain whether or not any television installation in such place, premises, or building is receiving transmissions from Television Niue.

(3) No officer shall enter any place, premises or building without first giving notice to the owner or occupier of any such place, premises, or building.

(4) In the exercise of the powers under this regulation, the Corporation shall ensure that as little inconvenience as possible is caused to the owners or occupants of any place, premises or building.

**14 Powers of Corporation to take legal proceedings**

(1) For the purposes of these Regulations, the Corporation may take legal proceedings in its own motion through its officers, or through an appointed agent or attorney, or through the Niue Police.

(2) Any proceedings under regulation 12 may include proceedings for the recovery of any fees due to the Corporation under regulation 7 or 10.

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 SCHEDULE
**A TELEVISION**

(a) Advertising – Daily Rates	
Sponsorship	\$25 per programme
From commencement of transmission up to 15 minutes before news time	\$5 for up to 30 seconds
From 15 minutes before the news and during breaks in the news	\$10 for up to 30 seconds
After news to close of transmission	\$8 for up to 30 seconds

(b) Advertising – Weekly Rates	
From commencement to news time	\$15 for up to 30 seconds
One each day	
After news to close of transmission	\$20 for up to 30 seconds
One each day	

(c) Other Services	
Filming of special functions or occasions eg hair cutting, weddings, etc	\$250
Production of commercials	\$50

## **B RADIO**

(a) Advertising	
<b>Morning</b>	
One call	\$3 for up to 30 seconds
Three calls	\$5 for up to 30 seconds
Weekly rate for two calls each day, Monday to Friday	\$12 for up to 30 seconds
<b>Lunch hour</b>	
One call	\$2 for 30 seconds
Three calls	\$4 for up to 30 seconds
Weekly rate for two calls each day, Monday to Friday	\$10 for up to 30 seconds
<b>Evening</b>	
One call	\$3 for up to 30 seconds
Two calls	\$4 for up to 30 seconds
Weekly rate for two calls each day Monday to Friday	\$6 for up to 30 seconds
(b) Public Notices	
One call	\$3 for up to 30 seconds
Three calls	\$5 for up to 30 seconds
(c) Buy, Sell or Swap (private not business)	
One call	\$3 for up to 30 seconds
Three calls	\$5 for up to 30 seconds
(d) Entertaining/Fundraising	
One call	\$3 for up to 30 seconds
Three calls	\$5 for up to 30 seconds
(e) Birthday Calls	One call \$3

## **BUILDING CODE**

[EDITORIAL NOTE: The National Building Code 1990 is not reproduced. Copies of it may be attained from the Director of Works.]



# **BUSINESS LICENCE**

## **BUSINESS LICENCE REGULATIONS 1997**

1997/5 – 18 February 1997

- 1 Short title**  
These are the Business Licence Regulations 1997.
- 2 Interpretation**  
In these Regulations “Act” means the Business Licence Act 1997.
- 3 Fees payable**  
Fees payable by an applicant for the purpose of acquiring a licence under the Act are –
  - (a) For each wholesaler’s licence \$30.00 per annum
  - (b) For each retailer’s licence \$30.00 per annum
  - (c) For each service provider’s licence \$30.00 per annum
  - (d) True copies of licence \$10.00 for each copy
  - (e) Payment for advertising new business \$20.00 per application.





## CHATTELS TRANSFER

### CHATTELS TRANSFER FEES REGULATIONS 1967

- 1 Title**  
These are the Chattels Transfer Fees Regulations 1967.
- 2 Fees**  
There shall be paid to the Registrar for the various matters set out in the Schedule the respective fees set out in that Schedule.

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#### SCHEDULE

##### FEES TO BE PAID TO THE REGISTRAR UNDER THE CHATTELS TRANSFER ACT 1924.

	\$
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## CHILD ALLOWANCE

### CHILD ALLOWANCE (FEES) REGULATIONS 2004

2004/3 – 1 July 2004

**1 Title**

These are the Child Allowance (Fees) Regulations 2004.

**2 Interpretation**

(1) Expressions in these Regulations have the same meaning as they have in the Act.

(2) In these Regulations, “Act” means the Child Allowance Act 1995.

**3 Rate of child allowance**

(1) The rate of child allowance payable under section 4 of the Act shall be –

(a) \$100 grant for every newborn child to a non-public servant mother; and

(b) \$340 per annum for every qualifying child.

(2) Child allowance is payable under the Act in respect of each child who on 1 January of that year was a qualifying child or becomes a qualifying child on or before 30 June of that year.

**4 Payment of child allowance**

(1) Child allowance is payable –

(a) Once for a newborn child to a non-public servant mother shortly after giving birth; and

(b) In advance by equal payments on a quarterly basis or on the day which is one week before the first day of each school term in a year.

(2) Where under regulation 4(1)(b), a child becomes a qualifying child on or before 30 June in a year any unpaid child allowance payable in respect of that child for that year is to be paid on the next day of child allowance.



## **CIVIL AVIATION**

[EDITORIAL NOTE: The legislation listed in the Table of Subsidiary Legislation in Force is not reproduced. It has been superseded by the Civil Aviation Rules of New Zealand made under section 32(1) of the Civil Aviation Act 1990 (NZ). The Rules are accessible at <http://www.caa.govt.nz/rules/rules.htm>. The other subsidiary is listed for early repeal.]



# COMMUNICATIONS

## RADIO REGULATIONS 1972

SR 1972/128 – 1 July 1972

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## 1 Title

These are the Radio Regulations 1972.

## 2 Interpretation

In these Regulations –

“Act” means the Communications Act 1989;

“aerial” means the electrical conductor or system of conductors used for effecting radiocommunication and includes any pole, insulator, staywire, or other equipment or material used or intended to be used for supporting, enclosing, surrounding, or protecting any such conductor or system of conductors;

“aircraft station” means a mobile station on board an aircraft;

“amateur service” means a radiocommunication service carried on by duly authorised persons interested in radio technique by way of intercommunication and technical investigation solely with a personal aim and without pecuniary interest;

“apparatus” means any apparatus intended for the purpose of effecting radiocommunication, whether by transmission or reception, or both;

“authorised officer” in relation to these Regulations means an officer authorised by Cabinet for the purpose of that provision;

“base station” means a land station in the land mobile service carrying on a service with land mobile stations;

“broadcasting service” means a radiocommunication service in which the transmissions, whether by way of sound, television, or otherwise, are intended for direct reception by the general public;

“coast station” means a land station in the maritime mobile service;

“Department” means the Telecommunications Department and includes the Superintendent and any authorised officer;

“fixed service” means a service of radiocommunication between specified fixed points;

“fixed station” means a station in the fixed service;

“harmful interference” means any emission, radiation, or induction which endangers the functioning of a radionavigation service or of other safety services or seriously degrades, obstructs, or repeatedly interrupts a radiocommunication service operating under these Regulations;

“International Radio Regulations” means the radio regulations annexed to the International Telecommunication Convention, Montreux 1965, and includes any regulations made in amendment, addition, or substitution for the said radio regulation;

“land mobile service” means a mobile service between base stations and land mobile stations, or between land mobile stations;

“land mobile station” means a mobile station in the land mobile service capable of surface movement within the geographical limits of the country;

- “land station” means a station in the mobile service not intended to be used while in motion or during halts at unspecified points;
- “licence” means a licence under these Regulations, for the installation and working of radio stations, or for the erection, construction, establishment, maintenance, or use of radio apparatus capable of transmitting or receiving radiocommunications within Niue or on any Niuean ship;
- “licensee” means any person to whom a licence is granted under these Regulations;
- “maritime mobile service” means a mobile service between coast stations and ship stations or between ship stations in which survival craft stations may also participate;
- “mobile service” means a service of radiocommunication between mobile stations and land stations, or between mobile stations;
- “mobile station” means a station in the mobile service intended to be used while in motion or during halts at unspecified points;
- “operate” means to be in control of the functioning of radio receiving apparatus, or of radio transmitting apparatus while it is emitting radiations, or in control of the matter radiated by any such apparatus, but does not apply to any person while being the user of the public radiotelephone service; or to any person in respect of announcements made from a broadcasting station;
- “operator” means any person duly authorised by these regulations to operate radio transmitting apparatus or radio receiving apparatus;
- “premises” means any building, site, vehicle, vessel or structure, or any group of buildings within the same site or boundary and forming part of the same establishment, or any part of any building or site under separate occupation or tenancy;
- “public correspondence” means any communication which any station must, by reason of its being operated as a public service for the convenience of the general public, accept for transmission;
- “radiocommunication” means any transmission, emission, or reception of signs, signals, impulses, writing, images, sounds, or intelligence of any nature, including pulsed radio-frequency emissions, by the free radiation in space of electromagnetic waves of frequencies between 10 kilohertz and 3,000 gigahertz;
- “radio station” and “station” mean one or more transmitters or receivers or a combination of transmitters and receivers, including the accessory equipment, necessary at one location for carrying on a radiocommunication service classified by the service in which it operates permanently or temporarily;
- “radiotelegraphy” means a system of radiocommunication for the transmission of any kind of information by the use of a signal code;
- “radiotelephony” means a system of radiocommunication for the transmission of speech or other sounds;
- “restricted radiation device” means a device which radiates electromagnetic energy either incidentally to or as an essential element of its operation;
- “ship station” means a mobile station in the maritime mobile service located on board a vessel other than a survival craft, which is not permanently moored;

“Superintendent” means the Director of the Telecommunications Department of Government and includes any officer of the Niue Public Service acting for the time being in the place of the Superintendent of Radio, whether during any vacancy in that office or otherwise;

“survival craft” means a lifeboat, liferaft, or other survival equipment intended solely for survival purposes;

“telegram” means any written matter intended to be transmitted by radiotelegraphy or radiotelephony for delivery to an addressee.

### **3 Application to stations on ships and aircraft**

Unless otherwise expressly provided herein, these Regulations shall be applicable to all radio stations established on any Niuean ship, and also to all radio stations established on ships or other vessels that are not Niuean ships during the time the ships or other vessels are within the territorial waters or harbours of Niue, and shall similarly be applicable to all aircraft stations on or over Niuean territory notwithstanding that the aircraft may not be registered in Niue.

## **PART 1 GENERAL MATTERS**

### **4 Application**

The Regulations contained in this Part shall apply to every class of radio station except such stations as may be specifically exempted herein.

### **5 Cabinet may establish radiocommunication systems**

(1) Nothing in these Regulations shall prejudice or affect the right of Cabinet to establish, extend, maintain and work any system or systems of radiocommunication (whether of a like nature to those licensed hereunder or otherwise) in such manner as it shall think fit.

(2) Nothing in these Regulations shall prejudice or affect the right of Cabinet to enter into agreements for or to grant licences relative to the working and use of radio stations (whether of a like nature to those licensed hereunder or otherwise) for the transmission or reception of messages in any part of Niue by means of radiocommunication, or by any other means, with or to any person or persons whomsoever, upon such terms as Cabinet thinks fit.

(3) Except as expressly provided in these Regulations, nothing herein contained shall be deemed to authorise any licensee to exercise any of the powers or authorities conferred on or acquired by Cabinet by or under the Act.

### **6 Delegation of Cabinet’s powers**

Any of the powers or authorities given to Cabinet by these Regulations may be delegated by Cabinet to such officer or officers of the Niue Public Service as Cabinet thinks fit.

### **7 Cabinet may cause inquiry to be made**

Cabinet may cause inquiry to be made into any matter connected with these Regulations or arising thereunder, in such manner as he thinks fit, and licensees and operators shall comply strictly with every requirement of Cabinet made pursuant to any such inquiry.

**8 Licence or construction permit required for a station**

- (1) (a) Except as provided in these Regulations, every person who, not being the holder of a licence authorising him to do so, erects, constructs, establishes, maintains, or uses any apparatus capable of transmitting radiocommunications, or is in possession of any apparatus capable of receiving radiocommunications, commits an offence and shall be liable accordingly.
- (b) Before the issue of a licence, the Superintendent may issue a permit for the construction and testing of a station for which application for a licence has been made, and which is capable during that construction or testing, or at any time whatsoever, of generating electric waves likely to interfere with radiocommunication, and that subject to regulation 9, for the purposes of this regulation, any such construction permit shall be deemed to be a licence until revoked, or if not revoked, until such time as a licence shall have been issued.
- (2) Notwithstanding paragraph (1) that paragraph shall not apply in respect of apparatus for the reception of radiocommunications in the broadcasting service.

**9 Construction permit may lapse if certain conditions not met**

Any construction permit issued by the Superintendent under regulation 8 shall, unless extended by the Superintendent, be deemed to have lapsed if construction of the station has not been completed within 6 months from the date of the granting of the permit.

**10 Classes of licences that may be granted**

The following classes of licences may be granted, and shall be in such form as Cabinet approves in that behalf –

- (a) For transmitting stations –
- (i) ship station licence;
  - (ii) land mobile station licence;
  - (iii) land station licence;
  - (iv) fixed station licence;
  - (v) amateur station licence;
- (b) For receiving stations –
- (i) ship station receiving licence;
  - (ii) land mobile station receiving licence;
  - (iii) land station receiving licence;
  - (iv) fixed station receiving licence.

**11 Transmitting station licence to include both the transmitting and receiving apparatus**

A transmitting station licence shall cover both transmitting apparatus and receiving apparatus at the station.

**12 Superintendent's decision final**

The Superintendent shall decide the class of licence and the number of licences to which any person is entitled in respect of any existing or proposed radio station, and his decision shall be final.

**13 Terms, conditions, and restrictions, in connection with licence or construction permit**

Cabinet may, in connection with any licence or construction permit, impose such terms, conditions, and restrictions, not inconsistent with the Act or these Regulations as it thinks fit.

**14 Apparatus to comply with technical specifications**

Cabinet may require that any apparatus used in any radiocommunication service shall comply either in whole or in part with any technical specifications issued in that behalf by the Superintendent.

**15 Period of validity of licence**

Except where otherwise provided in these Regulations, every licence issued under these Regulations shall be in force from the time of the granting until the date of expiration shown thereon (if any), or until suspended or revoked.

**16 Cabinet may refuse to grant application for licence**

Cabinet may refuse to grant an application for any class of radio licence.

**17 Transmitting station licences issued only to New Zealand subjects**

No transmitting licence shall be issued to anyone other than a New Zealand subject except at the discretion of Cabinet and subject to such terms, conditions and restrictions as Cabinet thinks fit.

**18 Licence for a corporate body**

(1) Where the applicant for a licence is a corporate body, any individual through whom the application is made shall satisfy the Superintendent that he is duly authorised to make the application in the name and on behalf of the corporate body.

(2) Where a licence is sought for a station vested in any person in trust for an association, institute, or other body of unincorporated persons, the applicant shall satisfy the Superintendent that he is or is to be the person to erect, construct, establish, maintain, and use the apparatus or that he is the person in possession of the station or apparatus in respect of which the licence is sought.

**19 Licence personal to licensee**

(1) Every licence, permit, certificate, or authorisation issued or enuring under these regulations shall be personal to the licensee or holder, and no licensee or the holder of any permit, certificate, or authorisation, shall assign, sublet, transfer, or otherwise dispose of, or for the purpose of profit admit any other person or body to participate in the benefit of any such licence, permit, certificate, or authorisation.

(2) The Superintendent or any person authorised by him in that behalf shall have the power, in any case at his sole and entire discretion to waive this requirement by giving prior consent in writing to any such disposal or admission and such consent shall enure only for the purpose of that disposal and admission and no subsequent disposal or admission.



**20 Fee payable for licence**

(1) Except as otherwise provided in these Regulations, the fee payable in respect of any licence under these regulations shall be the appropriate fee prescribed in Schedule 1.

(2) In the case of a station performing the service of both a land station and a fixed station, the fee for the licence for the station shall be the fee prescribed in clause 4 of Schedule 1.

(3) The fee for a receiving station licence under regulation 10 (b) shall be half the fee prescribed for a transmitting station licence of the same class.

**21 Commencing date for licensing year**

Except as provided in these Regulations, the fee payable for any licence described in regulation 10 shall be the fee for the full licensing year, which shall be deemed to commence as follows –

(a) For a ship station licence: on the first day of January;

(b) For a land station licence, a land mobile station licence, or a fixed station licence: on the first day of April;

(c) For an amateur station licence: on the first day of the month of issue.

**22 Short-term licence**

The Superintendent may issue a licence for a station or stations in the fixed service or the land mobile service for a period not exceeding 28 days.

**23 Back dating of licence**

(1) Where a person applies for a licence in respect of any apparatus capable of transmitting or receiving radiocommunications, and before the grant of the licence he, without being the holder of a licence for the time being in force authorising the act, did any act in respect of the apparatus which, in accordance with these regulations, may only be done by the holder of a current licence, the licence applied for may be dated as of the date on which he first did the act.

(2) In any proceedings for an offence against these Regulations a licence shall not be deemed to have been in force before the date on which it was granted.

**24 Licence fee for initial period**

In the case of a transmitting station licence (other than an amateur station licence) where the period to the end of the licensing year does not exceed 3 months and the licence is also taken out for the ensuing year or part of the year, the fee for the initial period shall be one-fourth of the annual fee and shall be added to the full annual fee for the ensuing licensing year.

**25 Cabinet may issue licence without payment of prescribed fee**

Notwithstanding anything in these Regulations, where in the opinion of Cabinet any such action is warranted, Cabinet may issue a licence without payment of the prescribed fee or upon payment of a reduced fee.

**26 Licence subject to respective limitations and restrictions**

Every radio licence shall be deemed to be subject to the respective limitations and restrictions contained in these regulations in respect of a licence of the class concerned as if those limitations and restrictions were set out expressly in the licence.



**27 Non-liability of Cabinet or Niue Public Service**

Neither Cabinet nor the Niue Public Service shall be liable in respect of any action, claim, or demand that may be brought or made by any person in respect of any bodily injury or damage to property or any other circumstances arising from any act permitted by a licence issued under these regulations.

**28 Application of International Radio Regulations**

The International Radio Regulations shall, except as may otherwise be provided in these regulations, apply to every licence issued by Cabinet, and every licensee shall observe any such provisions as far as they apply to the particular class of licence held by the licensee.

**29 Radiocommunication restricted to services indicated in licence**

Subject to these Regulations, a licence issued under these Regulations shall not authorise the licensee to take part in any radiocommunication service other than the services indicated in the licence.

**30 Competition with Government communication services prohibited**

(1) Except with the authority of Cabinet a radio station shall not be used in any way to compete with Government communication services, and shall not transmit or receive radiocommunications the transmission or reception of which is calculated, in the judgment of Cabinet, to cause loss of revenue to the Department.

(2) In an emergency, communications having for their object the preservation of human life, the protection of property, or the detection of crime, may be transmitted or received without reference to Cabinet.

**31 Station to be used for authorised radiocommunications only**

Neither the licensee nor any other person shall use, nor shall the licensee cause or permit any person to use, any radio station for the transmission or reception of radiocommunications except such radiocommunications as are authorised by these Regulations.

**32 Cabinet may grant extension of normal terms of licence**

Where difficulties inherent to the nature of radiocommunication may be overcome by a reasonable extension of the normal terms of any licence issued under these Regulations Cabinet may grant to the licensee, in writing, such extension of the terms as in the opinion of Cabinet may be necessary in the circumstances.

**33 Observance of conditions and provisions of licence and of regulations**

Every licensee of a radio station shall faithfully observe and cause to be observed all the conditions and provisions of the licence and of these Regulations as far as they are applicable.

**34 Licensee personally responsible for observance of regulations and other conditions imposed**

Notwithstanding any approval that may be given to the licensee by Cabinet for any person other than the licensee to operate any radio station, the licensee shall be personally responsible for the observance of these Regulations and all other conditions imposed as if the station were operated by the licensee.

**35 Infringement of copyright or patent**

The issue of a licence under these Regulations shall not relieve the licensee of responsibility for infringement of copyright or of any patent for an invention, or for compliance with any other Regulations, instructions, or rules which may be applicable.

**36 Licence exercisable in respect of 1 address only**

Subject to the provisions of these Regulations, a radio station licence, except a licence for a mobile station, shall authorise any act covered by the licence only at the particular address stated in the licence and shall not extend to anywhere else.

**37 Dismantling or removal of station**

In the event of a radio station licensed under these Regulations being dismantled, or (except in the case of a mobile station) removed from the particular address stated in the licence, the licensee shall, within 7 days thereafter, notify the Superintendent in writing accordingly.

**38 Proposed alterations to transmitting apparatus to be notified**

Any proposed alteration affecting the technical characteristics or the location or the functioning of the transmitting apparatus at any radio station shall be notified in writing to the Superintendent.

**39 Harmful interference to other stations**

The licensee of any radio station shall operate the station in such manner as not to cause harmful interference and shall comply with all such directions and conditions as may be given or made by the Superintendent for that purpose.

**40 Harmful interference suffered by reason of deficiencies in receiving apparatus**

It shall not be a breach of regulation 39 if any harmful interference is, in the opinion of the Superintendent, suffered by any receiving apparatus by reason of its being of inferior design or construction or being incapable of such minimum technical performance as he may prescribe.

**41 Directive aerials**

Wherever the nature of the service permits, and if directed by the Superintendent, directive aerials shall be employed.

**42 Erection of aerials**

Aerials shall not, without the consent of Cabinet, be erected above or below any lines erected and maintained by the Department, or sufficiently near any such lines to permit contact with them should any such lines or the aerial fail.

**43 Levels of spurious emissions**

(1) The licensee shall ensure that the levels of spurious emission of a station are kept at the lowest value which the general state of development of radio apparatus permits and in any case the levels of spurious emissions shall be maintained within the limits prescribed by the International Radio Regulations.

(2) The Superintendent may set any limit lower than that prescribed by the International Radio Regulations for the maximum permissible value of any spurious emission in which case the licensee shall ensure that the levels of spurious emissions do not exceed this lower limit so set.

**44 No monopoly of allotted frequency**

(1) The allocation of any frequency to any transmitting station shall not be held to confer upon the licensee or upon the station so licensed, a monopoly of the use of that frequency.

(2) The Superintendent may, and subject to such terms, conditions, and restrictions as he thinks fit, allocate to any licensee a frequency for the exclusive use of the licensee's station or stations so licensed.

**45 Operator of transmitting station to hold valid certificate**

Except as otherwise provided in these Regulations, or in the case of an emergency involving the safety of life or property, no person shall operate the apparatus at a transmitting station licensed under these Regulations unless he is the holder of a valid certificate of the required class, or an authorisation issued, or in the case of a certificate recognised by Cabinet.

**46 Allocation of callsign**

The Superintendent shall allot to every transmitting station licensed under these Regulations a callsign by which the station shall be identified.

**47 Transmission of callsign**

Except as otherwise directed by the Superintendent, each transmitting station shall transmit its callsign as frequently as practicable, and in any event at least once in each hour during the course of transmission.

**48 Impersonation**

No person shall, by means of a radio station, impersonate any other person, or pass off that radio station to be any other radio station, or use the callsign of another radio station improperly, or without lawful justification.

**49 False, fictitious, or misleading radiocommunication or distress signal or call**

No person shall transmit or cause or permit to be transmitted any radiocommunication of a false, fictitious, or misleading character, and in particular but without prejudice to the foregoing, transmit or cause or permit to be transmitted any false or deceptive distress signal or distress call.

**50 Seditious, profane, obscene, defamatory, or offensive radiocommunication**

No person shall transmit or cause or permit transmission of any radiocommunication of a seditious, profane, obscene, or defamatory nature, or of an offensive nature or meaning.

**51 Penalty for contravention of or non-compliance with regulations 48, 49 or 50**

Any person who acts in contravention of or fails to comply with any requirement of regulations 48, 49 or 50 commits an offence against these Regulations, and shall be liable on conviction to a fine not exceeding 1 penalty unit.

**52 Log to be kept**

(1) The licensee of every transmitting station shall, unless exempted by the Superintendent, keep a log record showing the hours during which the station is in operation, the time of each transmission, the class of emission, the station called, and the power and the frequency used.

(2) In addition, stations of the maritime mobile service and aircraft stations shall record such other particulars as may be required from time to time by the Superintendent.

(3) The log shall be retained for a period of 1 year, and shall be produced for perusal by an authorised officer whenever required.

**53 Unauthorised use of information**

Every person who, by virtue of any radio station, has access to any radiocommunication not intended for his information, shall preserve the secrecy of that radiocommunication and any information whatsoever derived from it, and shall not except as authorised in these Regulations make use of that radiocommunication or any information whatsoever derived from it and shall not reproduce or cause or permit to be reproduced, in a newspaper or elsewhere, or communicate to any third party, any such radiocommunication or any information derived therefrom, nor shall the fact of the existence of the radiocommunication be disclosed.

**54 Publication of information**

(1) Except with the authority of Cabinet no licensee or other person shall communicate to a newspaper for publication any radiocommunication by whatever means received.

(2) This regulation shall not apply to the private correspondence of the licensee.

**55 Penalty for contravention of or non-compliance with regulations 53 or 54**

Any person who acts in contravention of or fails to comply with any provision of regulations 53 or 54 commits an offence and shall be liable on conviction to a fine not exceeding 1 penalty unit.

**56 Copy of telegram**

Nothing in these Regulations shall be deemed to prohibit a person duly authorised in that behalf from giving a copy of any telegram or information relating to any telegram to the person or persons entitled thereto, or to a properly authorised official of Government, or to a competent legal tribunal.

**57 Restricted radiation devices**

Notwithstanding anything in these Regulations, restricted radiation devices operated subject to the following conditions need not be licensed under these Regulations –

- (a) Operation shall be confined to the frequency range of 10 kHz to 150 kHz, or, in the case of devices used solely for the transmission of the output of musical instruments or of record reproducing devices, to the frequency ranges of 10 kHz to 150 kHz and 525 kHz to 1605 kHz;
- (b) The distance over which the operation extends shall not exceed 50 ft; and at this distance the electromagnetic field shall not exceed 15 microvolts per metre in any direction;

- (c) No microphone for voice reproduction shall be connected to any such device;
- (d) The devices shall be operated with the minimum power necessary to accomplish the desired purpose;
- (e) The best engineering principles shall be utilised in the generation of radio frequency energy so as not to cause harmful interference to other radiocommunication services; and in the event that such interference is caused, the operator of the device shall promptly take steps to eliminate the interference;
- (f) Any harmful interference that may be experienced from the operation of other restricted radiation devices, or from the operation of any other radiocommunication service, must be tolerated.

### **58 Control of stations in emergency**

(1) If and whenever an emergency has arisen in which it is expedient in the public interest that Government shall have control over the radiocommunications of any licensed radio stations, it shall be lawful for any officer of Her Majesty's armed forces, or for any other person authorised in that behalf by Cabinet to take possession of, or to cause the station or any part thereof to be taken possession of, in the name and on behalf of Her Majesty, and to be used for Her Majesty's service, and subject thereto, for such other services as the said officer or person may deem fit.

(2) In that event, the officer or any person authorised in that behalf by Cabinet may enter upon any premises at, or on which the station or any part thereof is installed, and take possession of the station or any apparatus comprising the station and use the same as aforesaid.

(3) Any such officer or authorised person may in such event as aforesaid, instead of taking possession of the station, direct and authorise such persons as he may think fit to assume the control of the radiocommunications of the station, either wholly or partly, to such extent and in such manner as he may direct, and any such persons may enter upon any station accordingly, or the said officer or person authorised by Cabinet in that behalf may –

- (a) Direct the licensee or his servants or agents to submit to him, or any person authorised by him, all messages tendered for transmission or received by the licensed station, or any class or classes of any such messages; or
- (b) Direct the licensee or his servants or agents to stop or delay the transmission of any messages, or deliver the same to the said officer or person or his agent, and generally to obey all such directions relating to the reception and transmission of messages as the said officer or person may prescribe; or
- (c) Dismantle or order the dismantling of the said station –  
and the licensee and his servants or agents shall obey and conform to all such directions or orders.

### **59 Inspection of stations**

Cabinet or any agent duly authorised by it, may at any time inspect any station other than a station for the reception of radiocommunications in the broadcasting service, and may inspect the working and use of any such station, and for that purpose, or for the purpose of determining whether the qualifications of any operators employed conform to the requirements of these regulations, may enter upon any property or premises on which any such station is established, and the licensee shall afford Cabinet or its agent all reasonable facilities therefor.



**60 Licence, permit or authorisation to be available**

Except as otherwise provided in these Regulations, the licensee of any radio station shall cause the licence, permit, or authorisation, as the case may be covering the station, to be available at the station at all times for inspection by an authorised officer.

**61 Duplicate copy of licence**

(1) A duplicate copy of a licence shall be issued only on production of satisfactory evidence that the original has been lost, mutilated, or destroyed.

(2) The fee for any duplicate copy of a licence shall be that prescribed in Schedule 1.

**62 Requirements where breach committed against the Act or Regulations**

If, in the opinion of the Superintendent or other officer duly authorised by Cabinet a breach of the Act or of these Regulations has been committed in respect of the installation or operation of any radio apparatus, the Superintendent or authorised officer may require the licensee or operator or other person responsible for the alleged breach to cease to operate or to dismantle the apparatus pending the determination of Cabinet in respect of the alleged breach, and may take into custody the whole or part of any such apparatus or in other manner render the said apparatus inoperative, and any such direction or action shall subsist until countermanded by Cabinet.

**63 Suspension or revocation of licence, permit, certificate, or authorisation**

(1) Any licence, permit, certificate, or authorisation issued or enuring under these Regulations may at any time be suspended or revoked by Cabinet in the event of misconduct or of a breach on the part of the holder of the International Radio Regulations, or of these Regulations, or of any conditions, directions, or rules prescribed by Cabinet for the guidance of operators or for the working of the licensed station, or of any conditions, directions, or rules subject to which the licence, permit, certificate, or authorisation was issued, or where it appears to Cabinet to be in the public interest, or upon the grounds that an emergency has arisen in which it is expedient that Government shall have control over radiocommunication.

(2) The licensee shall not be entitled to compensation for any suspension or revocation of a licence, permit, certificate, or authorisation under this regulation.

(3) Any such suspension or revocation shall be effected by notice serviced on the licensee, or holder of the permit, certificate, or authorisation, personally, or sent by registered post addressed to him at his usual or last known place of abode or business in Niue, or at any address stated in the licence, permit, certificate, or authorisation or in any application for a licence, permit, certificate, or authorisation, or publicly notified as provided by regulation 64 and shall be deemed to have been given, if sent by post, at the time when it would be received at its address in the ordinary course of registered post, and, if publicly notified, on the day following the first publication of the notice.

(4) Any licence, permit, certificate, or authorisation revoked under this regulation shall be forthwith surrendered to Cabinet.

**64 Notice of suspension or revocation**

Cabinet may publicly notify the suspension or revocation of any licence, permit, certificate, or authorisation and may give notice to any person of the suspension or revocation.

**65 Failure to surrender licence, permit, certificate, or authorisation**

Any person who, without reasonable cause, fails to surrender any licence, permit, certificate, or authorisation so revoked as aforesaid, after having been required in writing or otherwise by Cabinet or by any person acting on its behalf, so to do, commits an offence against these Regulations.

**66 Service of notice, request, or consent**

(1) Any notice, request, or consent (whether required to be in writing or not) given by Cabinet under these Regulations may be under the hand of the Superintendent or other authorised officer of the Department, and may be served by sending the same in a registered letter addressed to the person concerned at his office or place of residence for the time being, or, if any such notice, request, or consent relates to any particular ship station, by delivering the same to the master or other person responsible for the ship upon which the station is installed.

(2) Any notice to be given by any licensee or any other person under these Regulations may be served by sending the same in a registered letter addressed to the Superintendent, Radio Station, Niue.

**67 Penalty where no other penalty provided**

Any person who acts in contravention of, or commits an offence against, any of these regulations for which a penalty is not otherwise provided, or who commits any breach of the conditions of a licence, permit, certificate, or authorisation of which he is the holder, and for which a penalty is not otherwise provided, shall be liable on conviction to a fine not exceeding 0.5 penalty units.

**PART 2****OPERATORS CERTIFICATES, AUTHORISATIONS AND EXAMINATIONS****68 Classes of certificates**

(1) The classes of operators certificates of competency which may be granted are the following –

- (a) Radiotelegraph operators special certificate;
- (b) General radiotelephone operators certificate;
- (c) Restricted radiotelephone operators certificate;
- (d) Land radiotelephone operators certificate;
- (e) Amateur operators certificate.

(2) The fee payable in respect of the entry for the examination for any such certificate shall be the appropriate fee prescribed in the Schedule 2.

**69 Form of certificate or authorisation**

Any certificate or authorisation shall be in such form and subject to such conditions, directions, or rules as Cabinet may approve in that behalf.

**70 Terms, conditions and restrictions in connection with certificate or authorisation**

Cabinet may, in connection with any certificate of authorisation impose such terms, conditions, and restrictions, not inconsistent with the act or these Regulations, as it thinks fit.

**71 Cabinet may refuse to grant an application for an operators certificate or authorisation**

Cabinet may refuse to grant an application for any class of operators certificate or authorisation.

**72 Operators certificates issued only to New Zealand citizens**

No operators certificate shall be issued to anyone other than a New Zealand citizen except at the discretion of Cabinet and subject to such terms, conditions, and restrictions as Cabinet thinks fit.

**73 Recognition of Commonwealth operators certificate**

The Superintendent may at his discretion recognise as the equivalent of an operators certificate issued under these Regulations an operators certificate of similar class issued by a country of the Commonwealth or by the Republic of Ireland.

**74 Conditions for the conduct of examinations**

The Superintendent may prescribe the conditions for the conduct of any examination under these Regulations.

**75 Minimum age limit**

(1) No operators certificate shall be issued under these Regulations to a person less than 18 years of age.

(2) (a) An amateur operators certificate may be issued to a person not less than 16 years of age; and

(b) At the discretion of the Superintendent a restricted radiotelephone operators certificate or a land radiotelephone operators certificate may be issued to a person not less than 16 years of age.

**76 Examination for radiotelegraph operators special certificate**

To qualify for a radiotelegraph operators special certificate a candidate shall pass the appropriate examination prescribed in the International Radio Regulations together with a test in the exchanging of traffic, and a practical test to determine the candidate's ability to send correctly and to receive correctly by telephone.

**77 Endorsement of certificate for radiotelegraph service only**

Where a candidate for the examination for a radiotelegraph operators special certificate is unable to pass a test in sending and receiving messages by telephone but passes in all other subjects, an appropriate certificate endorsed to apply exclusively to the radiotelegraph service may be issued.

**78 Examination for radiotelephone operators certificate**

To qualify for a general or restricted radiotelephone operators certificate a candidate shall pass the appropriate examination prescribed in the International Radio Regulations.

**79 Examination for land radiotelephone operators certificate**

To qualify for a land radiotelephone operators certificate a candidate shall pass an examination comprising a knowledge of the rules and regulations applicable to the particular class of station or service in respect of which that certificate is required.



**80 Examination for amateur operators certificates**

- (1) There shall be 3 grades of amateur operators certificate.
- (2) To qualify for a certificate of Grade 1 a candidate shall pass an examination comprising –
  - (a) A written examination in the elementary principles of electricity, radiotelegraphy, and radiotelephony, and in the adjustment and operation of radio apparatus used in a typical amateur station; and
  - (b) A knowledge of such of these regulations as are applicable to the amateur service; and
  - (c) A morse operating test, both sending and receiving, at a speed of 15 words a minute.
- (3) To qualify for a certificate of Grade II a candidate shall pass an examination comprising –
  - (a) The examination prescribed in subclause (2)(a) and (b);
  - (b) A morse operating test, both sending and receiving, at a speed of 12 words a minute.
- (4) To qualify for a certificate of Grade III a candidate shall pass an examination comprising the examination prescribed in subclause (2)(a) and (b).

**81 Re-examination**

- (1) In circumstances in which any such action is deemed to be necessary or desirable in the public interest, the Superintendent may require any person to whom any class of operators certificate or authorisation under these Regulations has been issued to submit himself for re-examination in any or all of the subjects required for examination for the class of certificates or authorisation concerned.
- (2) Where any person fails to submit himself for re-examination in accordance with this regulation when so required by the Superintendent, or fails to qualify at the re-examination, the certificate or authorisation issued to that person may be suspended or revoked for such period as Cabinet shall determine.

**82 Recount of marks awarded**

- (1) In circumstances in which any such action appears desirable the Superintendent may approve a recount being made of the marks awarded to a candidate in respect of any written examination prescribed by these regulations.
- (2) The fee in respect of each paper for which a recount of marks is undertaken shall be that prescribed in Schedule 2.

**83 Declaration of secrecy**

Before any operators certificate or authorisation under these Regulations is issued a written declaration that he will preserve the secrecy of any radiocommunication not intended for his information shall be made by the applicant.

**84 Duplicate operators certificate or authorisation**

- (1) A duplicate copy of an operators certificate or authorisation shall be issued only on production of satisfactory evidence that the original has been lost, mutilated, or destroyed.
- (2) The fee for any such duplicate copy shall be that prescribed in Schedule 2.

PART 3  
MOBILE STATIONS

**85 Types of licences**

The following licences may be issued for the categories of mobile stations mentioned –

- (a) Ship station licences for ship stations;
- (b) Land mobile station licences for land mobile stations.

**86 Limitation applying to ship stations**

Except as provided in regulation 88, ship stations are authorised to communicate only with other stations of the maritime mobile service or with aircraft stations.

**87 Distress calls and distress messages**

Mobile stations of the maritime mobile service and aircraft stations shall accept, with absolute priority, distress calls and distress messages regardless of their origin and the operator shall immediately convey any such calls and messages to the master or other person responsible for the ship or aircraft and take such other action in regard thereto as may be required.

**88 Station in distress may use any means at its disposal to attract attention**

No provision in these Regulations shall be so construed as to hinder a ship or aircraft station in distress using any means at its disposal to attract attention, indicate its position, and obtain assistance.

**89 Ship stations licensed to engage in public correspondence**

(1) There shall be 4 categories of ship stations licensed to engage in public correspondence and the category of any such ship station shall be as determined by Cabinet.

(2) The licensee of a ship station shall provide a service at least during the hours of service for the category of ship station in which that ship is placed prescribed as follows –

First category: ship stations of the first category shall maintain a continuous service;

Second category: ship stations of the second category shall maintain a service for 16 hours a day;

Third category: ship stations of a third category shall maintain a service for 8 hours a day;

Fourth category: ship stations of the fourth category shall maintain a service the duration of which may, if not otherwise prescribed by the International Radio Regulations, be less than that of stations in the third category.

(3) The class of operator for each category of ship station shall be as prescribed by the International Radio Regulations for ship stations of the appropriate category participating in the international public correspondence service.

**90 Ship stations employing radiotelephony not licensed to engage in public correspondence**

The minimum qualification to be held by each operator of a ship station employing radiotelephony and not licensed to engage in public correspondence shall be a general radiotelephone operators certificate or a restricted radiotelephone operators certificate as determined by Cabinet.

**91 Ship stations employing radiotelegraphy not licensed to engage in public correspondence**

Ship stations employing radiotelegraphy and not licensed to engage in public correspondence shall be manned by an operator holding a radiotelegraph operators special certificate or a radiotelegraph operators certificate of higher grade.

**92 Accounts, payments and retention of records**

(1) The licensee of a ship station open for public correspondence shall keep full accounts, records and registers of all radiotelegrams transmitted by him. Each radiotelegram shall be identified by a number and date, full particulars of its place of origin and of ultimate destination, and such further particulars as the Superintendent may require to be shown.

(2) The licensee shall preserve all used radiotelegram forms whether written or printed, and transcripts of radiotelegrams and all other papers relating thereto, for such period as is prescribed by the International Radio Regulations, and these shall accompany any account or inquiry submitted by the licensee to the Superintendent.

(3) The originals of radiotelegrams, and documents relating to radiotelegrams retained by the licensee, shall be held, with all necessary precautions to maintain privacy as to their contents, for 6 months from the month in which the accounts were submitted.

(4) The licensee shall pay to the Superintendent, at such times and in such manner as the Superintendent shall direct, all sums due from the licensee for radiotelegrams exchanged between the licensed station and coast stations in accordance with the charges due under the International Radio Regulations as the Superintendent may direct.

(5) When requested by a coast station for particulars of how or by whom accounts are to be settled the licensee of the ship station shall, as a matter of regular procedure, furnish to the coast station the necessary particulars.

**93 Documents to be carried by ship stations**

Ship stations shall carry such documents relating to the operation of the station as the Superintendent may require.

**94 Ship stations operating in bands between 405 kHz and 535 kHz**

Every ship station licensed to use a radiotelegraph installation in the authorised bands between 405 kHz and 535 kHz shall be able to transmit class A2 or class A2H emissions and receive class A2 and class A2H emissions on the international calling and distress carrier frequency of 500 kHz.

**95 Ship stations operating in bands between 1605 kHz and 2850 kHz**

Every ship station licensed to use a radiotelephone installation in the authorised bands between 1605 kHz and 2850 kHz shall be able to transmit class A3 or class A3H emissions and receive class A3 and class A3H emissions on the international calling and distress carrier frequency of 2182 kHz.

**96 Ship stations operating in bands between 156 MHz and 174 MHz**

Every ship station licensed to use a radiotelephone installation in the authorised bands between 156 MHz and 174 MHz shall be able to transmit and receive class F3 emissions on the international calling and safety frequency of 156.80 MHz and on the primary internship frequency of 156.30 MHz.

**97 Ship stations to keep listening watch on 500 kHz**

(1) All ship stations licensed to use radiotelegraph installations in the authorised bands between 405 kHz and 535 kHz shall, during their hours of service, observe a listening watch on the international distress carrier frequency of 500 kHz twice each hour for 3 minutes commencing at 15 minutes and 45 minutes past the hour, Greenwich Mean Time.

(2) During these periods all transmissions in the bands between 485 kHz and 515 kHz except for distress, urgent, or safety transmissions, shall cease.

**98 Ship stations to keep listening watch on 2182 kHz**

(1) All ship stations licensed to use radiotelephone installations in the authorised bands between 1605 kHz and 2850 kHz shall, during their hours of service, observe a listening watch on the international distress carrier frequency of 2182 kHz twice each hour, for 3 minutes commencing on the hour and half hour, Greenwich Mean Time.

(2) During these periods all transmissions between the frequencies of 2173.5 kHz and 2190.5 kHz, except for distress, urgency or safety transmissions, shall cease.

**99 Inspection of ship stations**

(1) If on inspection under regulation 59, any ship station is found to be not so equipped or provided for as prescribed in these Regulations, or in the International Radio Regulations where those Regulations are applicable, a notice in writing pointing out the deficiency shall be given to the master or licensee of the station, and a copy of that notice shall be given to an authorised representative of the Marine Department at the port where the inspection is carried out.

(2) Upon receipt of any such notice the master or other person responsible for the station shall take immediate steps to rectify the deficiency.

**100 Prevention of transmissions from ships in harbour in special circumstances**

(1) If and whenever the Government shall deem any such action necessary in the interests of the State, Cabinet may, by public notice, prohibit the use of radio by ship stations in harbour and notify that the provisions of this regulation shall be in force until further notification, and thereafter and until a countermanding notice has been similarly published, the following provisions shall apply in respect of ships entering or in any harbour –

- (a) The radio transmitting apparatus shall be rendered inoperative to the Customs Officer boarding the vessel, and the room or rooms housing the apparatus shall be locked by the Customs Officer and the keys handed to the master who shall be responsible for their custody. The master shall ensure that all portable transmitters are rendered inoperative by being made subject to the same procedure;
- (b) During the stay of the vessel in harbour, access to the radio transmitting apparatus will be allowed only if it is necessary for the radio staff to have such access in order to carry out maintenance work, or other essential duties;
- (c) The master shall ensure that no transmissions are made while the radio transmitting apparatus is so accessible and that the cabin is relocked as soon as all maintenance work or other essential duties have been done;

- (d) (i) In the case of any foreign ship all radio transmitting apparatus shall be sealed by the Customs Officer boarding the vessel before locking the room or rooms housing the apparatus under paragraph (a) and the master shall be responsible for ensuring that the seals are not broken during the vessel's stay in harbour;
- (ii) Access to radio transmitting apparatus shall be allowed only for essential maintenance purposes upon the master notifying the Customs Officer when access is required and the said officer arranging for the breaking of the seals. The master shall ensure that no transmissions are made while the apparatus is so accessible.

(2) An entry shall be made in the ship's station log of any action taken under paragraph (1).

(3) No radar installation shall be used by any ship while in harbour except when the ship is under way and no radio transmissions shall be made at any time while the ship is in harbour.

(4) If at any time while the provisions of this regulation are in force there is in respect of any ship in harbour a failure to comply with any of the provisions of this regulation the owner and master shall be guilty of an offence, and the owner and master and any other person committing a breach of paragraph (3) shall be guilty of an offence, and shall be severally liable on conviction to a fine not exceeding 20 penalty units.

#### **101 Notice of detention of a ship**

(1) Whenever Cabinet has reasonable cause to believe or suspect that any breach of regulation 100 (3) has been committed on board any merchant ship while in harbour, it may give notice in writing to the Financial Secretary to detain the ship until the sum of \$2,000 or such smaller sum as may be specified in the notice, has been deposited with the Financial Secretary by or on behalf of the person liable.

(2) If on receipt of that notice, or at any time within 3 months thereafter, the ship is found within port, the Financial Secretary shall withhold the certificate of clearance of the ship under section 72 of the Customs Act 1966, until and unless the aforesaid sum is deposited with him or the aforesaid notice of detention is withdrawn.

(3) If within 6 months after the date of the offence in respect of which the ship has been detained a conviction for that offence is obtained against any person, the sum so deposited shall be available for the satisfaction of any fine and costs imposed and awarded by the conviction, and the residue, if any, shall be returned to the person by whom or on whose behalf the deposit is made.

(4) If within the period of 6 months aforesaid no such conviction is obtained, the sum so deposited shall be returned to the person by whom or on whose behalf it was deposited.

(5) The countermanding of a notice that the provisions of this regulation are in force shall not affect the liability of any person for an offence committed before the publication of the countermanding notice.

#### **102 Qualifications of operators of land mobile stations**

(1) The minimum qualification to be held by each operator of a land mobile station shall be a radiotelegraph operators special certificate or a land radio telephone operators certificate as the case may require.

(2) If the frequency of emission of a radiotelephone transmitter is above 30 MHz no operators certificate shall be required.



**103 Penalty where no other penalty provided**

Any person who commits a breach of any of the regulations in this Part for which a penalty is not otherwise provided in this Part commits an offence and shall be liable on conviction to a fine not exceeding 2 penalty units for each such breach.

PART 4  
LAND STATIONS

**104 Types of licences**

Land station licences may be issued for the following categories of land stations –

- (a) Coast stations;
- (b) Base stations.

**105 Coast stations operating in bands between 405 kHz and 535 kHz**

Every coast station licensed to use a radiotelegraph installation in the authorised bands between 405 kHz and 535 kHz shall be able to transmit class A2 or class A2H emissions and receive class A2 and class A2H emissions on the international calling and distress carrier frequency of 500 kHz.

**106 Coast stations operating in bands between 1605 kHz and 2850 kHz**

Every coast station licensed to use a radiotelephone installation in the authorised bands between 1605 kHz and 2850 kHz and capable of transmitting on the international calling and distress carrier frequency of 2182 kHz shall be able to transmit class A3 or class A3H emissions and receive class A3 and class A3H emissions on that carrier frequency.

**107 Coast stations operating in bands between 156 MHz and 174 MHz**

Every coast station licensed to use a radiotelephone installation in the authorised bands between 156 MHz and 174 MHz shall be able to transmit and receive class F3 emissions on the international calling and safety frequency of 156.80 MHz.

**108 Coast stations to keep listening watch on 500 kHz**

(1) All coast stations licensed to use a radiotelegraph installation in the authorised bands between 405 kHz and 535 kHz shall, during their hours of service, observe a listening watch on the international distress carrier frequency of 500 kHz twice each hour for 3 minutes, commencing at 15 minutes and 45 minutes past the hour, Greenwich Mean Time.

(2) During these periods all transmissions in the bands between 485 kHz and 515 kHz, except for distress, urgency or safety transmissions, shall cease.

**109 Coast stations to keep listening watch on 2182 kHz**

All coast stations licensed to use a radiotelephone installation in the authorised bands between 1605 kHz and 2850 kHz shall, during their hours of service, observe a listening watch on the international distress carrier frequency of 2182 kHz twice each hour for 3 minutes, commencing on the hour and half hour, Greenwich Mean Time. During these periods all transmissions between the frequencies of 2173.5 kHz and 2190.5 kHz, except for distress, urgency, or safety transmissions, shall cease.

**110 Qualifications of operators of coast stations**

The minimum qualification to be held by each operator of a coast station shall be a radiotelegraph operators special certificate or a restricted radiotelephone operators certificate as the case may require.

**111 Qualifications of operators of base stations**

(1) The minimum qualification to be held by each operator of a base station shall be a radiotelegraph operators special certificate or a land radiotelephone operators certificate as the case may require.

(2) Where the frequency of emission of a radiotelephone transmitter is above 30 MHz no operators certificate shall be required.

## PART 5

## FIXED STATIONS

**112 Scope of licences**

A fixed station licence may be issued for a fixed station and shall specify fixed points between which radiocommunications are authorised for that station.

**113 Qualifications of operators**

(1) The minimum qualification to be held by each operator of a fixed station shall be a radiotelegraph operators special certificate or a land radiotelephone operators certificate, as the case may require.

(2) Where the frequency of emission of a radiotelephone transmitter is above 30 MHz no operators certificate shall be required.

## PART 6

## AMATEUR STATIONS

**114 Scope of licences**

Amateur station licences shall authorise the establishment of stations in the amateur service.

**115 Persons to whom licences may be issued**

(1) Amateur station licences shall be issued only to the holders of amateur operators certificates, and shall be issued only to individuals.

(2) In the case of any society having as its sole or principal object the pursuit by its members of an interest in amateur radio a licence may be issued to an authorised official of the society as trustee therefor.

**116 Qualifications of operators**

(1) No person shall operate an amateur station unless he holds an amateur operators certificate nor shall the licensee of any such station cause or permit any person not being the holder of such a certificate to operate the said station.

(2) Any person not ordinarily resident in Niue who, in the country in which he is ordinarily resident, is the holder of an amateur station licence or an amateur operators certificate may operate an amateur station under the direct supervision of the licence.

**117 Issue of authorisation to non-citizen**

(1) Cabinet may and subject to such terms, conditions, and restrictions as it may prescribe in that behalf, issue an authorisation to permit any person who is not a New Zealand subject, and who is licensed by his Government as an amateur radio operator, to operate the amateur station licensed by his Government, in Niue.

(2) No authorisation shall be issued under paragraph (1) unless Cabinet is satisfied that the applicant's Government is willing to make reciprocal arrangements for the benefit of amateur radio operators holding amateur operators certificates issued by Cabinet.

(3) Cabinet may refuse to issue any authorisation under this regulation notwithstanding that the applicant's Government may be willing to make reciprocal arrangements as aforesaid, or may suspend or revoke an authorisation under this regulation.

(4) The holder of an authorisation under this regulation shall, subject to the terms and conditions of the authorisation, have in Niue all the rights and obligations of the holder of an amateur operators certificate issued by Cabinet.

**118 Temporary operation at a different address**

An amateur station licence shall authorise the establishment of an amateur station at the licensee's usual address or, during such times as the licensee may be temporarily absent from his usual address, the establishment by him of a station at a different address.

**119 Communication permitted with other amateur stations only**

Except in the case of emergency or where otherwise approved by the Superintendent, amateur stations shall be used for the purpose of communicating with other stations of the amateur service only.

**120 Handling of third party messages prohibited**

Licensees of amateur stations shall not engage in radiocommunication for any third party.

**121 Licensees not to engage in radiocommunication for hire or material compensation**

Licensees of amateur stations shall not engage in radiocommunication for hire or material compensation, direct or indirect, paid or promised.

**122 Limitation on class of message**

All radiocommunications from amateur stations, whether by speech or in Morse code, shall be conducted in plain language and shall be limited to messages of a technical nature relating to radio experiments and to remarks of a personal character for which, by reason of their unimportance, recourse to the public telecommunications service is not justified.

**123 Transmission of news, entertainment, or recordings prohibited without prior approval**

Except with the prior written approval of the Superintendent, the licensee of an amateur station shall not transmit matter by way of national or international news, or any matter by way of public entertainment, or which by virtue of its significance would be of concern, to the public generally, or any body of the public, and shall not transmit recordings of any kind.



**124 Power permitted**

(1) Except as may be authorised by Cabinet, the power permitted to be used in transmitting apparatus at an amateur station shall not exceed 150 watts direct current input to the final radio frequency stage or stages delivering power to the aerial.

(2) In those cases where the power input varies with the modulating component the measurement of the direct current input shall be made with the transmitter fully modulated and using meters of a type in which full-scale current causes 63 percent of full-scale reading in one quarter of a second or less.

**125 Harmful interference to broadcast reception**

(1) In the event of the operation of an amateur station causing harmful interference to broadcast reception by receiving apparatus which, in the opinion of the Superintendent or other authorised officer, is of reasonable selectivity, the licensee of the amateur station concerned shall when so required by the Superintendent or other authorised officer, forthwith cease to operate the station on the frequency or frequencies which cause interference until the interference is removed.

(2) Should the complete elimination of the interference be impossible, the operation of the station may be resumed only with the permission of the Superintendent or other authorised officer on such conditions and at such times as may be prescribed.

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SCHEDULES

SCHEDULE 1

FEEs PAYABLE IN RESPECT OF LICENCES ISSUED UNDER THE RADIO REGULATIONS 1972

1	For ship station licence if the ship is required by any enactment to be equipped with a radio transmitting installation	\$10 per annum
2	For ship station licence if the ship is not required by any enactment to be equipped with a radio transmitting installation, or for a land mobile station licence other than a short-term licence	\$6 per annum
3	For a fixed station licence other than a short-term licence	\$6 per annum
4	For a land station licence other than a short-term licence for a base station	\$6 per annum
5	For a short-term licence for a base station, a fixed station, or a land mobile station	\$ 1 for each station
6	For an amateur station licence	\$3 per annum
7	For a duplicate copy of any licence	\$1

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SCHEDULE 2

Fees Payable in Respect of Certificates Issued Under Part 2 of the Radio Regulations 1972

1	For examination	
	(a) Radiotelegraph operators special certificate	\$2
	(b) General radiotelephone operators certificate	\$2
	(c) Restricted radiotelephone operators certificate	\$1.50
	(d) Land radiotelephone operators certificate	\$1
	(e) Amateur operators certificate	\$0.75
	(f) Morse operating only	\$0.50
2	For each examination paper in respect of which a recount of marks is undertaken	\$0.50
3	For a duplicate copy of a certificate	\$0.50

## TELEPHONE REGULATIONS 1968

SR 1968/25 – 1 April 1968

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- 1 Title**  
These are the Telephone Regulations 1968.
- 2 Interpretation**
- (1) In these Regulations –
- “contract” means the agreement which is executed when application is made for telephone service;
- “Department” means the Telecommunications Department and includes the Superintendent, and any officer of the Department acting in the premises;
- “exchange” means a departmental telephone exchange consisting of one or more offices containing switching apparatus by means of which intercommunication between the various subscriber’s stations connected therewith may be given;

- “extension station” means a subsidiary station normally having access to the exchange line, with or without the intervention of the main station;
- “individual line” means a subscriber’s line connecting one subscriber’s station with a telephone exchange;
- “main station” means the subscriber’s main telephone apparatus on which incoming calls are normally received;
- “party line” means a line connecting two or more subscribers’ stations with a telephone exchange;
- “prescribed charge” means the charge stated in Schedule 1 for the service referred to in that Schedule;
- “rental” means the amount which Cabinet charges for the use of the telephone equipment which forms part of a telephone exchange connection;
- “subscriber” means the person who is recognised by Cabinet as the lessee of a telephone exchange connection;
- “Superintendent” means Director of the Telecommunications Department of Government; and includes any officer of the Niue Public Service acting for the time being in the place of the Superintendent, whether during any vacancy in that office or otherwise.

(2) Notwithstanding the use in these Regulations or in any contract or other document of any of the words “lease”, “lessee”, and “rental”, or any similar words, no subscriber shall at any time be deemed to be in possession or entitled to possession of any line, telephone instrument, apparatus, or equipment, the property of the Government, except such as is from time to time for the time being installed within the buildings of the subscriber’s premises, and all other lines, apparatus, and equipment to which any contract relates shall be deemed to remain in the possession of the Government but to be the subject of a right in the subscriber to have the use and benefit of the same to the extent and in the manner provided by the contract and by these Regulations, and not further or otherwise.

## PART 1

### TELEPHONE EXCHANGE SERVICES

#### **3 Telephone services subject to Regulations**

All telephone services furnished by the Department shall be subject to these Regulations and to all amendments and extensions thereof and substituted regulations at any time in force, and it shall be a condition implied in every contract for telephone services, heretofore or hereafter made by the Department that the contract shall be so subject.

#### **4 Applications for service**

(1) Applications for telephone exchange service shall be made in writing on the form of application and contract supplied for that purpose.

(2) Any application made on behalf of a partnership or a company shall be signed by one of the partners or by an authorised officer of the company respectively.

(3) Except where special services are sought, the application and contract shall be in form 1 in Schedule 2.

**5 Service connection fee**

(1) A service connection fee prescribed in Schedule 1 shall be payable in respect of each new or additional connection (main station), except in the case of a temporary connection as provided for in regulation 40.

(2) (a) Cabinet may, in special circumstances, waive or reduce the fee.

(b) The fee shall be an initial charge only, and shall be payable at the time of application for service.

**6 Annual rates and other charges**

(1) Telephone services shall be subject to the annual rates and other charges appropriate to the classes of service provided as prescribed in Schedule 1, and shall be for such minimum period as the Department may determine at the time of application, and shall be continued thereafter until the subscriber gives notice in writing that the service is to be discontinued or until the Department discontinues the service.

(2) Every contract for the hire of instruments shall be deemed to be for the minimum period referred to therein and thereafter until discontinuance of the service as aforesaid, subject to the rights of the Department to discontinue the service, notwithstanding that the minimum period may not have expired.

**7 Charges for telegrams**

In addition to being liable for the payment of any telephone charges in respect of the telephone exchange connection leased by him, a subscriber shall be liable for the charges in respect of all telegrams telephoned from his telephone station to a telegram office for onward transmission.

**8 Refusal or discontinuation of service**

The Superintendent may –

(a) Refuse to comply with an application for connection with any telephone exchange system, or for the transfer of any existing telephone service or for the construction of any telephone line;

(b) Disconnect a subscriber's telephone from one exchange should he consider such action desirable;

(c) Discontinue giving service at any exchange if other suitable arrangements can be made for serving the subscribers;

(d) Instead of refusing absolutely to comply with any application, accede thereto only upon such conditions as to security, nature of service (including type of apparatus) to be afforded, special minimum period of contract, or other conditions as he may think fit.

**9 Business stations**

For the purposes of assessment, a subscriber's station shall be deemed to be a business station –

(a) If it is installed in premises that are used as a warehouse, shop, office, boardinghouse, or otherwise wholly or in part for business purposes, including a private residence so used;

(b) If in any other way it bears prima facie evidence of being used for business purposes, or, in the opinion of the Superintendent is so used.

**10 Residential station used for a business**

Whenever in the opinion of the Superintendent a station assessed as a residential station is used for a business, the Superintendent may require payment at the rate prescribed for a business station from the date when in his opinion it was so used.

**11 Poles at cost of subscriber**

All poles in excess of one on private roads or private property shall be supplied, erected, and renewed whenever in the opinion of the Superintendent renewal is advisable, at the cost of the subscriber or subscribers concerned, except that no charge shall be made in this respect –

- (a) When the pole line forms part of a route to be used in serving other subscribers; or
- (b) When the pole line is used for other departmental purposes; or
- (c) When there is in the opinion of the Superintendent an alternative route by public road; or
- (d) In exceptional cases where the Superintendent so directs.

**12 Telephone directory to be supplied**

For the rates prescribed for telephone exchange stations the Department shall supply one copy of the telephone directory for each telephone, and provide and maintain all necessary exchange equipment, subscribers' lines, and one telephone per station.

**13 Superintendent may alter or change number**

No subscriber shall have any right to or interest in any particular number, and the Superintendent may alter or change any number at his discretion.

**14 Use of telephone exchange lines**

(1) Except in cases in which the preservation of human life or the protection of public property may be involved, or as otherwise provided in these Regulations, telephone exchange lines shall be used only by the subscriber, his family, guests, and employees, and exclusively on his or their affairs.

(2) On breach of this regulation the Superintendent may cause the telephone service to be discontinued.

**15 Party line service**

Party line service shall be provided to the extent that the equipment available in the telephone exchange permits, and then only when the subscribers desiring to be connected with the same line can in the opinion of the Department conveniently be served from the same point of distribution.

**16 Regrouping of subscribers on party lines**

The Superintendent may regroup the subscribers on party lines, and may make additional connections to party lines, without the consent of the existing subscribers.

**17 Duration of conversation over party line**

A conversation over any party line shall not exceed six minutes in duration if the line is required by any other person.

**18 Calls over party line exceeding reasonable use of line**

When in the opinion of the Superintendent the number of calls originated or received by any subscriber connected with a party line precludes a reasonable use of the line by the other parties, the Superintendent may require the subscriber either to rent an individual line or to be transferred to a line with which there will be smaller number of parties connected.

**19 Rating system for annual charges**

For every subscriber's main station there shall be payable an annual charge covering an unlimited number of local calls and fixed according to –

- (a) Whether the station is a business station or residence;
- (b) Whether the station is on an individual line, or a party line.

**20 Rate charge**

Subject to regulation 15, and unless otherwise specified in these Regulations, individual, 2, 3, 4 and 5 party line service shall be furnished to stations at the rates prescribed in Schedule 1.

**21 System of payment**

(1) All prescribed annual charges for telephone exchange service shall be payable in advance by equal half-yearly instalments on the first days of the half-yearly periods commencing on the first days of April and October.

(2) On the commencement of service or of any extended or additional service a proportionate part of the annual charges from the date on which the service is made available to the next ensuring half-yearly day of payment shall be paid within 7 days after the first mentioned date.

**22 Failure to pay charges**

If any subscriber fails for 7 days after written demand made upon him to pay any instalment of annual charges or any other charges due by him under these Regulations, the Superintendent may cause the telephone service to be discontinued.

**23 Defaulter in respect of charges**

If a subscriber becomes a defaulter in respect of any charges due under the conditions of contract, or any other telephone charges due under these Regulations, he shall not be furnished with telephone service of any kind until he has discharged his liability to the Department.

**24 Service obtained by defaulter in other name**

If the Superintendent is satisfied that any service is being obtained either in his own or any other name by a person who is, in the opinion of the Superintendent, a defaulter in connection with any telephone service furnished by the Department, Cabinet may cause the telephone service to be discontinued.

**25 Reconnection fee**

(1) In the event of any subscriber's service being discontinued under regulation 22, a reconnection fee, prescribed in Schedule 1 in addition to all other amounts due, shall be payable by the subscriber before the service is restored.

(2) If the instruments at the subscriber's premises have been removed, or if any portion of the circuit has been dismantled, a request for application for restoring the circuit shall be treated as an application for a new connection.



**26 Refund of rental**

Should a subscriber discontinue the renting of a service during the currency of a period for which rental has been paid in advance, a refund of rental shall be granted in respect of the unexpired term if it exceeds seven days, but no refund shall be granted in respect of any portion of the minimum period originally provided for in the contract.

**27 Adjustment of rental**

(1) In the event of the number of subscribers' stations connected with a line being reduced by the withdrawal of one or more of the subscribers, the amended rates prescribed in respect of the remaining stations shall take effect from the first day of the next half yearly period for which accounts are to be issued.

(2) In the event of the number of subscribers' stations connected with a line being increased, the new or additional subscriber shall pay rental from the date of their connection at the rates prescribed for the amended number of stations connected with the line; but no alteration shall be made in the rentals of the original stations until the first day of the following month.

(3) Notwithstanding paragraphs (1) and (2), a reduction in the number of subscribers' stations connected with a party line shall not affect the rental of a subscriber until the expiration of the minimum period originally provided for in the contract.

**28 Telephone directory listings**

For each subscriber's main station one free entry will be published in the telephone directory to contain not more than one line of print and to consist of the name or firm name of the subscriber or his nominee, his business (in the case of a business station), his address, and the telephone number.

**29 Supply of equipment**

(1) All lines, telephone instruments, equipment, and fittings in connection with the telephone exchange system, except where otherwise provided by these Regulations, shall be supplied and erected by the Department, and, except with the authority of the Department, no person other than an employee of the Department provided with proper means of identification shall interfere with or make any additions or alterations to any such electric line, instrument, equipment, or fitting under the Department's control.

(2) In the event of any such interference by any unauthorised person, the subscriber concerned shall be liable to have his service discontinued without prejudice to any other liability that may be incurred.

**30 Inspection of equipment**

Employees of the Department provided with proper means of identification shall at all reasonable times have free access to the premises of any subscriber for the purpose of inspection, removal, or replacement of the departmental apparatus therein.

**31 Precautions to prevent damage or injury**

The Superintendent shall take reasonable precautions to prevent damage or injury to subscribers or their premises from fire or other cause by reason of the installation of telephone apparatus, but neither the Superintendent nor the Government shall be liable for any damage or injury that may arise from the failure of any such precautions.

**32 Damage to equipment**

(1) In the event of any instrument, battery, or equipment on the premises of a subscriber being lost, wholly destroyed, or partially damaged through any means whatever (other than fair wear and tear), the subscriber shall pay to the Department on demand, the cost to the Department of replacing or repairing the instrument, battery, or equipment; but no charge shall be made in respect of any instrument, battery, or equipment accidentally destroyed or damaged by fire, earthquake, or other inevitable catastrophe.

(2) This regulation shall apply notwithstanding that there has been no negligence on the part of the subscriber or any person for whom he is responsible, and notwithstanding that the loss, destruction, or damage may have arisen from some cause not due to the act or default of the subscriber.

**33 Cleansing of telephone**

Any person who, not being the subscriber or an employee of the subscriber, cleanses, without the written permission of the Department, the mouthpiece or earpiece of any telephone the property of the Department, for fee or reward, commits an offence against these Regulations.

**34 Interference with equipment**

(1) No person shall damage or destroy or interfere with any line, telephone instrument, apparatus, or equipment being the property of the Government, whether supplied under this Part or under any other Part or otherwise, and whether or not in the possession or control of that person, or cause or suffer the same to be damaged or destroyed or interfered with, or put the same or cause or suffer the same to be put to any improper use.

(2) For the purpose of this regulation, interference includes the removal from its regular place of any instrument, apparatus, or equipment unless supplied as intended to be portable; and also includes the removal or detachment of a part of any instrument, apparatus, or equipment unless supplied as intended to be at the discretion of the user detachable; and also includes the adjustment, maintenance, repair and modification of any instrument, apparatus, or equipment, and the incorporation therein or connection therewith or addition thereto of any additional or other instrument, apparatus, or equipment.

(3) Every person who commits a breach of this regulation commits an offence against these Regulations.

**35 Transmission of communications or musical items**

(1) No person shall use any telephone instrument, or cause or suffer any telephone instrument to be used, for the transmission of communications of a nature calculated to annoy or irritate any person.

(2) No person shall without the authority of Cabinet, use any telephone instrument, or cause or suffer any telephone instrument to be used, for the purpose of transmitting musical items, whether they be derived from direct vocal or instrumental performance or from radio broadcast transmission or from mechanically operated musical instruments or reproducing instruments or otherwise.

(3) Every person who commits a breach of this regulation commits an offence against these Regulations.



**36 Service discontinued for illegal or improper use of instrument**

Cabinet may cause the telephone service of any subscriber to be discontinued –

- (a) If any person is convicted of a breach of regulations 34 or 35 involving the use of a telephone instrument belonging to the telephone service; or
- (b) If, in the opinion of Cabinet, a telephone instrument belonging to that telephone service has been used in a manner contrary to regulations 34 or 35;
- (c) If, in the opinion of Cabinet, a place of business or house or other premises where a telephone instrument belonging to that telephone service is situated is or are used for any illegal, immoral, or improper purpose.

**37 Interruptions of service**

(1) Neither Cabinet nor any officer of the Department nor the Government shall be liable for any action, claim, or demand for compensation for interruption of telephone service arising from any cause whatsoever.

(2) When a subscriber moves from one part of a village to another, and the Department is unable to provide him with telephone service within seven days, an allowance shall be made of the amount of the rental corresponding to the number of days during which the subscriber is deprived of telephone service.

**38 Overloaded lines**

With a view to reducing the number of ineffective calls due to overloaded lines, the Superintendent may require any subscriber on whose line or lines the number of such calls exceeds 25 percent of the number of effective incoming calls to rent an additional circuit, in default of which telephone service may be discontinued.

**39 Removal of plant**

(1) Whenever telephone service is discontinued pursuant to any of these Regulations, it shall be lawful for employees of the Department provided with proper means of identification to enter the premises in which are installed any wires, instruments, apparatus, or equipment of the Department and to remove the same from the premises, without prejudice to the subscriber's liability for any unpaid rental or other charges due and owing or occurring under these Regulations; and no liability or claim for damages on the part of any person shall be against Cabinet or any officer or employee of the Department or the Crown, whether by reason of the discontinuance notice, entry, or removal, or on any ground.

(2) Any person who, without lawful justification, refuses to deliver to any employee of the Department any wires, instruments, apparatus, or equipment of the Department to the possession of which he is not for the time being entitled commits an offence against these Regulations, without prejudice to any other liability that may be incurred.

## PART 2

## MISCELLANEOUS TELEPHONE SERVICES

**40 Temporary telephone service**

(1) When telephone service is desired for a shorter term than the period determined under regulation 6, the service may be granted conditionally on the applicant making application in writing in form 2 in Schedule 2 and paying, in addition to the estimated cost involved in establishing the service, the cost of labour, transport of labour, transport of material, and value of any material which is perishable or is so dealt with in making the installation as in the opinion of the Department not afterwards to be conveniently usable, a charge based on the annual rate for a permanent connection, with a minimum charge as for 6 months.

(2) The estimated cost of establishing the service and the minimum charge shall be payable before the service is provided.

(3) (a) In the event of the subscriber ultimately deciding to have the temporary service converted to an ordinary permanent one, the usual contract shall be executed, and the prescribed charge shall take effect from the date of completion of the contract;

(b) In any such case the cost of making the connection shall be refunded, but the usual service connection fee must be paid.

(4) Temporary extension telephones may be installed on payment of the usual installation charges as for temporary connections.

(5) Rental shall be charged at the rate prescribed in Schedule 1.

**41 Joint use of telephone**

(1) Any subscriber may with the approval of the Superintendent and upon payment of the fee prescribed in Schedule 1 obtain the right to allow the use of his telephone instrument to any person occupying an office in the same building, or occupying the same private residence, within which the telephone instrument is placed.

(2) (a) In any such cases the subscriber shall make application in writing in form 3 in Schedule 2 and be responsible for all service charges and toll charges, but may charge to the person or persons having the joint use of the telephone any portion of the charges.

(b) The fee applicable to joint use entitles each of the joint users to the insertion of his name in the telephone directory.

(3) If any extension telephones are involved the charges for those instruments shall be determined by the Superintendent.

**42 Removals**

(1) Subject to the approval of the Department, subscribers may have their telephones and apparatus removed to other premises, or the position of their telephones and apparatus altered, upon giving sufficient notice in writing and paying the fees prescribed in Schedule 1.

(2) In the event of a subscriber removing from or giving possession of the premises in which the telephone is situated without making arrangements approved of by the Superintendent for the removal of the telephone or discontinuance of the service, Cabinet may cause the service to be discontinued.

**43 Change of apparatus**

Subject to the approval of the Department, a subscriber may obtain a change of apparatus upon making application in writing, including an agreement to pay any additional rental involved and upon payment of the installation charges prescribed in Schedule 1.

**44 Transfer of connection**

(1) A fee, as prescribed in Schedule 1, shall be payable for the transfer of an existing exchange connection whether the transfer necessitates a removal or not. The application for transfer shall be in form 4 in Schedule 2 and all outstanding toll fees shall be paid before the transfer is granted.

(2) Any rental held by the Department in respect of the period subsequent to the date of transfer shall be credited to the account of the transferee.

(3) The transfer of a telephone involving its removal shall be granted only in exceptional circumstances or where the transfer is to take place before the expiration of the minimum period provided for in the contract, and on payment of the usual removal charges.

**45 New occupier to obtain transfer**

A person who has entered into the occupation of any premises having telephone service shall not be entitled to make use of the telephone until he has obtained a transfer; and, if any such person makes use of the service before obtaining a transfer, he shall be deemed to have assumed the service, and (without prejudice to any liability of the subscriber or any right or power of the Department) shall be liable for all amounts owing in respect of the service of the time when he entered into occupation of the premises, as well as amounts which become payable in respect of any use of the telephone after that time.

**46 Subscriber not to sell service**

(1) A subscriber shall not sell or offer for sale his telephone service; nor shall a subscriber accept a monetary offer for the transfer of his telephone.

(2) If in Cabinet's opinion any subscriber violates this regulation, or if any telephone connection is obtained by the violation of this regulation, Cabinet may cause the telephone service in respect of which the offence is committed to be discontinued.

(3) Nothing in this regulation shall prevent the transfer of a telephone service to a new or existing subscriber, with the consent of the Department, upon or in connection with a bona fide change in the occupancy of the premises in which the service is installed.

**47 Change in intercommunicating system**

(1) Subject to the approval of the Department, and on making application in form 2 in Schedule 2, including an agreement to pay the cost of the labour and incidental expenses involved in installing the necessary apparatus, telephones and the associated wiring, a subscriber may obtain telephones and switching facilities for intercommunication between various positions in the same premises.

(2) The charges for intercommunicating services are as prescribed in Schedule 1.

(3) (a) In this regulation and in regulation 48 the term "same premises" includes various buildings detached from one another but within the same boundaries as the main premises and forming part of the same establishment; but does not include separate dwellings on the same property.

- (b) The Superintendent may, however, authorise, in special circumstances the installation of extension stations involving wires crossing a public street or road or another person's property.

#### 48 Extension telephones

(1) Extension telephones and other miscellaneous equipment required within the same building or upon the same premises (as defined in regulation 47 (3) as the main station shall be furnished and maintained by the Department upon payment of the installation and rental charges prescribed in Schedule 1.

(2) An extension telephone shall not be installed in a subscriber's business premises if the main station with which it is associated is paid for as a residence station.

#### 49 Private branch exchange

(1) The equipment of a private branch exchange shall include a switchboard or switching apparatus of sufficient capacity to provide accommodation for all exchange lines and extension stations required by the subscriber, together with the necessary batteries, ringing devices, fitting, and one telephone or operator's set for each switchboard position.

(2) The cost of power for charging and recharging any secondary batteries associated with a private branch exchange shall be borne by the subscriber.

### PART 3

#### GENERAL PROVISIONS

#### 50 Government may enter into contracts

Nothing in these Regulations shall affect the power of the Government to enter into contracts for the provision of special equipment and wiring arrangements in cases not provided for by these Regulations.

#### 51 Penalty for offences

Every person who commits an offence against these Regulations is liable to a fine not exceeding 0.5 penalty units.

### SCHEDULE

#### SCHEDULE 1

##### PART A – ANNUAL RATES FOR STATIONS (REG. 20)

Class of station	Business Rate	Residence Rate
	\$	\$
Individual	24.00	15.00
Two party	18.00	13.00
Three party	16.00	11.00
Four party	14.00	9.00
Five party (or more)	12.00	7.00

##### PART B – TEMPORARY TELEPHONE SERVICE (REG. 40)

(1) Main station – A weekly rate at one fifty-second of annual rate plus 50 percent, with a minimum charge as for two weeks or whichever is the higher, and a minimum charge of 50c for each succeeding week or fraction thereof.

(2) Extension station – 15c a week or fraction thereof with a minimum charge of 30c.

(3) The applicant must pay also the estimated installation and dismantling costs in respect of labour and transport, and the value of any irrecoverable material or material rendered unfit for further use, with a minimum charge of \$1. If the connection is later made permanent a service connection fee becomes payable, and the foregoing costs are refunded less the value of any temporary material rendered unusable in so doing.

PART C – JOINT USE OF TELEPHONE (REG. 41)

Additional annual rental –	\$
Business main station	6.00
Residence main station	4.00

PART D – EXTENSION STATIONS (REG. 48)

Extension telephone	\$ 5.00
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PART E – CHANGE OF APPARATUS (REG. 43)

Description of Change	For One Change	For Each Additional Change in Same Premises at Same Time
	\$	\$
(a) Change to another telephone	2.00	0.50
(b) Conversion of a manual extension telephone from non-intercommunicating to intercommunicating	4.00	1.00
(c) Change of extension bell or other small item of miscellaneous equipment where no additional wiring is required	2.00	1.00

PART F – INTERCOMMUNICATING SERVICE (REG. 47)

- (1) The subscriber is charged the cost of the labour and expenses involved for –
  - (a) Providing a new extension station or system;
  - (b) Adding to or altering an existing system;
  - (c) Changing to another system;
  - (d) Replacing a system by another of greater capacity;
  - (e) Installing switchboards at the request of the subscriber, in excess of the number required to handle the normal traffic.
- (2) The annual charges for installed equipment are as follows
 

	\$
(a) Each trunk line to main exchange	24.00
(b) Each extension station	9.00

PART G – MISCELLANEOUS FEES AND CHARGES

	\$
(1) Service connection fee (reg. 4)	6.00
(2) Reconnection fee (reg. 25)	3.00
(3) Transfer fee (reg. 44)	1.00
(4) After-hours connection	5.00
(5) Extension bell	1.00
(6) Push-button and buzzer	1.50

## PART H – REMOVAL OF TELEPHONES (REG. 42)

- (1) Fee for removal to other premises – \$
- (a) Main telephone 6.00  
But if the telephone, internal wiring, and outside circuit are in position from a former connection and the equipment is taken over without alteration the charge is reduced to 2.00
- (b) Ordinary extension telephone, when moved at the same time as the main telephone 2.00  
But if an extension telephone is already in position from a former connection and no alteration in position or wiring is required no charge is made. If an extension telephone is moved away from the premises in which the main telephone is located, becoming a “distant” extension, or if a “distant” extension is moved to other premises, the charge is 4.00
- (c) Extension bell or other miscellaneous equipment which involves labour in fitting, when moved at the same time as the main telephone 2.00
- (2) Fee for removal within premises:

	From One Room To Another	From One Position To Another in the Same Room
	\$	\$
(a) Main telephone	2.00	1.00
(b) Ordinary extension telephone	2.00	1.00
(c) Extension bell or other miscellaneous equipment	2.00	1.00
(d) Intercommunicating extension telephone	Labour and incidental expenses	Labour and incidental expenses

(3) In the case of a removal or an alteration which is not covered above, or the disturbance of apparatus, equipment, or wiring by building alterations or renovations, the subscriber is charged with the labour and incidental expenses.

## SCHEDULE 2

## Form 1

Reg. 4

TELEPHONE EXCHANGE SERVICE  
FORM OF APPLICATION AND CONTRACT

To the Director of Telecommunications,  
ALOFI

## APPLICATION

I/WE, (Mr) (Mrs)(Miss) [*Full name*], hereby request that you arrange for the installation of a telephone on my/our behalf at in accordance with the undermentioned particulars.

I/WE tender herewith the prescribed service connection fee of \$6.00.

Particulars of Service Desired  
(Indicate requirements thus)

Classification of service

Business

Residence

Type of fitting

Desk

Wall

Type of service

Individual

Party line



CONTRACT

For the use of the telephone instruments, and for the telephone service, I/WE agree to pay the prescribed charges in advance as from the date of connection, and to be bound by all regulations from time to time in force respecting the hire or use of Government telephones, and to perform and conform to all conditions contained in any such regulations.

And I/WE further agree to hire the said instruments and line for the terms of ..... from the date of connection.

Signature of applicant ..... Signature of witness .....
Occupation ..... Occupation .....
Address ..... Address .....
Date ..... Date .....

Reg. 40

Form 2

TELEPHONE EXCHANGE SERVICE

Application for Auxiliary Telephone Service, Miscellaneous Equipment or for Removal of Existing Telephones

To the Director of Telecommunications

ALOFI

I hereby request that you [Insert particulars of service required], in respect of which I agree to pay the prescribed charges and estimated costs amounting to .....

[Delete if not applicable] And I further agree to pay half yearly in advance, as from the date of installation, the annual rates prescribed for any auxiliary services or miscellaneous equipment applied for hereon.

Signature of subscriber .....
Occupation .....
Address .....
Signature of witness .....
Occupation .....
Address .....
Date .....

Reg. 41

Form 3

TELEPHONE EXCHANGE SERVICE

Application for Joint Telephone Service

To the Director of Telecommunications

ALOFI

I/WE, ..... desire permission for M ..... who is occupying a portion of the (residential) (business) premises in which my/our telephone No. .... is situated, to have the joint use of the said telephone for which I/WE agree to pay, in addition to the present rental, the prescribed charges for this class of telephone service.

It is desired that the extra listing in the telephone directory be as follows...

Signature of subscriber .....
Occupation .....
Address .....
Signature of witness .....
Occupation .....
Address .....
Date .....



I agree to the telephone directory listing set out below:

Signature of person requiring joint use of telephone .....

Occupation .....

Address .....

Signature of witness .....

Occupation .....

Address .....

Date .....

Reg. 44

Form 4

TELEPHONE EXCHANGE SERVICE

*Application for Transfer of Exchange Connection*

To the Director of Telecommunications  
ALOFI

I /WE ..... hereby make application for the transfer to me/ us of the telephone exchange connection at present in the name of ..... in respect of which rental has already been paid in advance to the [Date], and tender herewith the transfer fee of \$1.

For the use of the instruments and for the telephone service I/WE agree to pay half-yearly in advance, as from ..... the prescribed charges, and to be bound by all regulations from time to time in force respecting the hire or use of Government telephones, and also to perform and conform to all conditions contained in any such regulations.

And I/WE further agree to hire to the said instruments and line until the ..... 19 ..... being the date of expiration and the term of the contract signed by .....

It is requested that the connection be listed in the directory thus –

Signature of applicant .....

Occupation .....

Address .....

Signature of witness .....

Occupation .....

Address .....

Date .....

I agree to the transfer of the connection.

Signature of transferor\* .....

\*If the signature of the new transferor cannot be obtained, application must be made for a new connection.



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**1 Title**

These are the Customs Regulations 1968.

**2 Interpretation**

(1) In these Regulations –

“Act” means the Customs Act 1966 ;

“Customs Acts” means the Customs Acts as defined in section 3 of the Customs Acts 1966;

“prescribed form” means a form prescribed by the Revenue Manager and a reference to a numbered form is a reference to a form so prescribed and numbered.

(2) Expressions defined in the Act have the meanings so defined.

PART 1  
ADMINISTRATION  
*Forms*

3 [Spent]

**4 Compliance with directions in forms**

Where a prescribed form contains, by way of note or otherwise, a direction or indication of any requirement of the Customs as to –

- (a) The number of copies of the document to be tendered;
- (b) The nature or form of the information to be furnished;
- (c) The colour of the paper on which the form is to be printed;
- (d) Any action, either by way of signing a form of declaration or otherwise, to be taken by the person concerned in the transaction in which the document is used or by his authorised agent; or
- (e) Receipts to be signed by officers of transport services or other persons in proof that the goods described in the form have been received for carriage or for any other purpose –

the requirement so indicated shall be deemed to be prescribed, and shall be complied with by the person concerned in the transaction or his authorised agent.

**5 Particulars as to statistical units and classifications**

(1) Where in respect of any item of the Customs Tariff an indication appears in that column of the Tariff headed "Unit", there shall be shown on any prescribed form used in relation to the entry of any imported goods included in or classified under any such item the quantity of goods so entered, expressed in terms of the unit so indicated.

(2) Where, on any form prescribed for the entry of goods for export, the statistical classification of goods is required to be shown, there shall be shown the information indicated in respect of the particular class of goods in the publication entitled "The Statistical Classification of Exports" and published from time to time by the Customs.

**6 Manager may require additional copies of forms or additional particulars**

The Manager may require copies of any prescribed form in addition to the number indicated on the form, and he may require to be shown on any form information additional to that prescribed if he deems the furnishing of the additional information to be necessary for the administration of the Customs Acts or for the preparation of statistical reports and returns.

**7 Manager may accept document substantially in prescribed form**

The Manager may accept instead of any prescribed form, other than a prescribed form of declaration, any document that is substantially in accordance with the prescribed form.

**8 Size of forms**

Forms prescribed under these Regulations shall be of such sizes as the Manager may approve.

**9 Forms to be completed in typewriting or in ink**

(1) Except where the Manager otherwise permits, all original documents presented to the Customs shall have the necessary particulars typewritten or inserted in ink, but copies may be prepared by carbon or other copying process.

(2) The Manager may refuse to accept any document that is not readily legible or is prepared otherwise than in accordance with paragraph (1).

*Miscellaneous Provisions*

10 –

**11 Receipt of money**

Duties, fees or charges payable under the Customs Acts shall be paid at the Customhouse at any time not later than 4pm during the working hours of the Customs as prescribed in regulation 12 (b).

**12 Working hours**

- (1) The working hours of the Customs shall be –
- (a) Boarding Inspectors' Officers: On Mondays to Fridays inclusive, from 8am to 5pm;
  - (b) All other offices: On Mondays to Fridays inclusive, either from 8am to 4.35pm or 8.30am to 5.05pm as the Manager directs in respect of each office.
- (2) In respect of any office situated at a Customs airport the working hours for the purposes of regulation 14 shall be those determined by the Manager in respect of that office.

**13 Fees for officers' time during working hours**

(1) Where, in any regulation under the Customs Acts, provision is made for a charge to be paid to the Manager for the attendance of any officer of Customs during the working hours of the Customs to perform or supervise any operation, the charge shall be at the rate of \$1.33 an hour or portion of an hour.

(2) The Manager may authorise a charge at the rate prescribed in paragraph (1) to be made by the Manager for the attendance of any officer during the working hours of the Customs to perform or supervise any operation in respect of which provision for the charge is not made elsewhere in any regulation under the Customs Acts.

**14 Fees for officers' time outside working hours**

(1) Whenever, for the purpose of carrying out any provision of the Customs Acts, any Customs officer is required to attend at any time outside the working hours of the Customs, the master or owner of any ship, pilot in command or owner of any aircraft, importer, exporter, remover, brewer, or other person concerned shall pay, in such cases as may be determined by the Manager, a charge calculated according to the following rates in respect of that attendance –

- (a) For attendance on any Customs holiday, \$2.66 an hour or portion of an hour;
  - (b) For attendance outside the working hours of the Customs on other days \$2 an hour or portion of an hour.
- (2) A minimum charge of \$5.32 shall be payable for the attendance of any officer on any Customs holiday.

**15 Expenses of officers**

Where in respect of any attendance for the purpose of performing or supervising any act required or permitted by the Customs Acts any travelling or other expenses are incurred or to be incurred by any officer of Customs, the Manager may require those expenses to be defrayed by the master or owner of any ship, pilot in command or owner of any aircraft, importer, exporter, remover, brewer, or other person concerned.



## PART 2

## GENERAL PROVISIONS AS TO ENTRIES

*Control of the Customs***16 Notice of delivery for home consumption**

(1) The authority for the delivery of goods from the control of the Customs for home consumption shall be –

- (a) In the case of warehoused goods, whether imported or not, in form 26A; and
- (b) In the case of other imported goods, including goods deemed to have been entered in accordance with regulation 29, in form 13B.

(2) In all cases, the authority shall be signed by the Manager or other proper officer.

(3) Notwithstanding anything in the foregoing provisions of this regulation, in the case of –

- (a) Goods imported in any aircraft or ship and deemed to have been entered in accordance with regulation 26; or
- (b) Goods imported by post and deemed to have been entered in accordance with regulation 143 –

the authority for the delivery of the goods shall be in such form or manner as the Manager may approve.

*General Provisions as to Entries***17 Cancellation or amendment of entry**

(1) Every person applying to the Manager for permission to cancel or amend an entry shall state his reason for desiring the cancellation or amendment.

(2) The Manager may require any such application and statement of reasons to be in writing or to be verified by declaration.

## PART 3

## IMPORTATION, EXPORTATION, REMOVAL WITHIN NIUE

*Arrival of Ships and Aircraft***18 Expected time of arrival**

(1) The master, owner, or agent of every ship arriving in Niue shall, not later than 12 hours before the estimated time of arrival of the ship at the first port, inform the Manager at that port of the estimated time of arrival.

(2) The pilot in command, owner, or agent of every aircraft arriving in Niue shall, not later than 2 hours before the estimated time of arrival of the aircraft at the first Customs airport, inform the Manager of the estimated time of arrival.

**19 Unauthorised persons not to board or leave ships**

(1) Except as provided in this regulation, or except in the case of urgent necessity due to a marine casualty or other like emergency, no person other than a pilot or other person necessary for the navigation of the ship shall, without the permission of an officer of Customs, board or leave any ship arriving from any country outside Niue until the inspection and examination of the passengers and crew have been completed.

(2) The restrictions imposed by paragraph (1) shall not apply to any of the following persons acting in the exercise of their powers or functions under any enactment –

- (a) Any officer of Customs;
- (b) The Port Health Officer and his assistants;
- (c) A constable;
- (d) An agriculture inspector.



## 20 **Unauthorised persons not to board aircraft. Restriction on leaving**

(1) Except as provided in this regulation, or except in the case of urgent necessity due to a aircraft accident or other like emergency, no person other than a person necessary for the operation of the aircraft shall, without the permission of an officer of Customs, board any aircraft arriving from any country outside Niue.

(2) The restrictions imposed by paragraph (1) shall not apply to any of the following persons acting in the exercise of their powers or functions under any enactment –

- (a) Any officer of Customs;
- (b) A Medical Officer of Health;
- (c) A constable;
- (d) An agriculture inspector.

(3) The proper officer of Customs may, if he considers it necessary for the due administration of the Customs Acts, require all or any of the passengers or crew of any aircraft arriving from any country outside Niue to remain on board the aircraft until the inspection and examination of the aircraft and its passengers and crew have been completed.

## 21 **Inward report of ships**

(1) The inward report to be made in respect of every ship, except a coastal ship, arriving at any port shall –

- (a) In the case of any such ship arriving from any country outside Niue consist of –
  - (i) An arrival manifest in form 1, and such particulars of passengers and crew as the Manager may require; and
  - (ii) A search list in form 2; and
  - (iii) A store list in form 3; and
  - (iv) [Revoked]
- (b) –
- (c) In the case of each such ship include such other documents and further particulars as the Manager may require.

(2) The master or owner of any vessel, except a coastal ship, arriving at any port shall make an inward report of the ship within one day after arrival at that port, or within such longer period as may be permitted by the Manager in any particular case.

## 22 **Inward report of aircraft**

(1) In respect of every aircraft arriving at any Customs airport for the first time on any journey from any country outside Niue the inward report shall consist of –

- (a) –
- (b) A general declaration in form 64; and
- (c) Such particulars of the passengers as the Manager may require; and
- (d) A cargo manifest in form 66; and
- (e) A crew and search list in form 67; and
- (f) A bonded stores list in form 68; and
- (g) Such other documents or further particulars as the Manager requires:

Provided that, if the aircraft is not disembarking passengers or discharging cargo, unaccompanied baggage, or stores, the general declaration shall so state, and a passenger list and a cargo manifest shall not be required.

(2) In respect of every aircraft arriving at any Customs airport after an inward report has first been made in accordance with paragraph (1) and carrying any goods brought from any country outside Niue, and not yet delivered from the control of the Customs, the inward report shall consist of –

- (a) A general declaration in form 64; and
- (b) Such other documents and further particulars as the Manager may require.

(3) The pilot in command or owner of the aircraft shall make such inward report on arrival at any Customs airport or within such period thereafter as may be permitted by the Manager in any particular case.

### **23 Unshipment of goods**

The Manager's permit to unship or land goods which are subject to the control of the Customs, or which would become subject to that control if unshipped or landed, shall be in form 20 and shall be issued subject to the conditions set forth there.

### **23A Removal of goods**

The Manager's permit to remove from any wharf, Customs airport, Customs containerbase, or examining place any goods subject to the control of the Customs shall be in form 20A, and shall be issued subject to the conditions set forth there.

#### *Entry of Imported Goods*

### **24 Entries for imported goods**

Entries for imported goods shall be in the following forms –

- (a) For home consumption temporarily and under security for subsequent re-exportation, in form 34;
- (b) For home consumption otherwise, in forms 13 and 13A;
- (c) For warehousing, in forms 14 and 14A;
- (d) For export, in form 15;
- (e) For removal in accordance with regulation 33, in form 16;
- (f) For removal otherwise, in form 15.

### **25 Part packages**

(1) Except with the permission of the Manager, entry shall not be made of a portion only of the contents of any package of imported goods.

(2) This regulation shall not apply in the case of the entry of separate portions of a package previously passed on a sight entry.

### **26 Entry of goods imported in aircraft or ships**

(1) Except when required by the Manager, it shall not be necessary for any importer to make entry for home consumption of any goods imported in any aircraft or ship if the total current domestic value of the goods imported by him in that aircraft or ship is less than \$20.

(2) Any goods to which paragraph (1) applies shall be deemed to have been entered for home consumption when application is made by the importer for their delivery.

**26A Certain goods exempt from entry**

Except as otherwise required by the Manager, and subject to the conditions set out in regulation 26B –

- (a) All bulk cargo containers; and
- (b) All wagons, trolleys, and wheeled pallets specially designed for the handling of bulk cargo containers; and
- (c) All lighters imported temporarily for the purpose of facilitating the discharging and loading of cargo which is being imported or exported,

may be imported or exported without entry.

**26B Condition of entry of certain goods**

The condition under which goods may be imported or exported without entry pursuant to section 54A of the Act is that the importer shall enter into and comply with a covenant –

- (a) In form 36 in the case of goods described in regulation 26A(a) or (b); and
- (b) In form 38 in the case of goods described in regulation 26A(c), and
- (c) In form 37 in the case of pallets.

**27 Entry not to refer to goods imported in more than one ship or aircraft**

Except where the Manager in any special case permits, each entry shall relate to goods imported in only one ship or aircraft.

**28 Passengers' effects not to be landed without permission of Customs**

Imported goods being personal baggage or household or other effects (all of which are referred to in regulations 29 and 30 as effects) shall not be unshipped or landed from any ship or aircraft or removed from any wharf or examining place without the permission of an officer of Customs.

**29 Effects not accompanying passengers**

When effects do not accompany passengers, they shall be deemed to have been entered for home consumption if a declaration in form 19 or form 19A, the case may require, has been made and delivered to the Manager or other proper officer.

**30 Declaration by passengers**

The Manager may require any passenger arriving in Niue to make a declaration in form 18 for sea passengers and form 18A for air passengers with respect to the effects accompanying them.

**31 When entry to be made**

Subject to section 55 (1) of the Act, entry of goods shall be made, at the port of arrival of the goods, within 21 working days after their arrival.

**32 Sight entries**

Sight entries shall be in form 17.

**33 Pro forma transshipment**

(1) When entry for removal is made of all the goods shown on the manifest of any ship or aircraft for any port, the following shall be inserted on the entry instead of the marks and numbers and the number and description of the packages and the goods, namely: "All cargo for....., as set forth on the part manifest of the report made and declared to... at the Customhouse this day, and having its pages numbered .....to ....."

(2) For the purposes of this regulation and of regulation 24 (e) all such goods shall be deemed to have arrived at their port of discharge as soon as the master or pilot in command has reported the importing ship or aircraft in accordance with section 45 of the Act.

*Entry of Goods for Export***34 Export entries for goods subject to the control of the Customs**

Entry for export of goods subject to the control of the Customs, if not required to be made in forms 15 or 16 or 27 or 34 or 35, shall be made in form 22.

**35 Export entries for goods not subject to the control of the Customs**

Entry for export of goods not subject to the control of the Customs shall be in form 22, and shall be made within 6 days after loading on the exporting ship or aircraft.

**36 Exemption from entry for export**

(1) In such cases as may be approved by the Manager, it shall not be necessary for any exporter to make entry for export of any goods.

(2) Any goods to which paragraph (1) applies shall be deemed to have been entered for export when the bill of lading or air consignment note or air waybill, as the case may be, is presented to the Manager or other proper officer.

**37 Landing certificates for exported goods**

The certificate referred to in section 67 (2) of the Act shall be given by the Manager or principal officer of Customs or other responsible Government official at the port of destination of the goods, and shall be in form 21.

*Departure of Ships and Aircraft***38 Certificate of clearance**

Every certificate of clearance shall be in form 8.

**39 Outward report of ships**

The outward report required to be made in respect of every ship, except a coastal ship, about to depart from any port shall –

- (a) In the case of a ship departing for any country outside Niue consist of an outward manifest of cargo and particulars of passengers and crew in form 10, or in such other form as the Manager may permit;
- (b) In the case of a ship departing coastwise, consist of a manifest in form 4; and if the ship has not on board any cargo shipped in any country outside Niue, the manifest shall be amended by deleting all reference to such original cargo.

**40 Outward report of aircraft**

(1) In respect of every aircraft departing from any Customs airport for any country outside Niue, the outward report shall consist of –

- (a) A general declaration (in duplicate) in form 64; and
- (b) A passenger manifest (in duplicate) in form 65; and
- (c) A crew and search list in form 67; and
- (d) Such other documents or further particulars as the Manager requires.

(2) If the aircraft is not embarking passengers or loading cargo or unaccompanied baggage the general declaration shall so state, and the passenger manifest shall not be required.

*Stores for Ships and Aircraft*

**41 Classes of ships' stores exempt from duty**

The following classes of goods (in regulations 42 to 44 referred to as ships' stores) shall be deemed to be stores within the meaning of section 78 of the Act –

- (a) Goods for use or consumption on board ships or aircraft;
- (b) Goods to be fitted into ships or aircraft.

**42 Request for ships' stores**

The request for ships' stores shall be in form 12.

**43 Receipt for ships' stores**

(1) A receipt for all ships' stores received on board a ship or aircraft shall be given by or on behalf of the master of the ship or the pilot in command of the aircraft.

(2) In the case of stores of the class referred to in regulation 41 (b) the master or pilot shall satisfy the Manager that the stores have actually been fitted into the ship or aircraft specified.

**44 Ships' stores shipped under drawback**

(1) Ships' stores shall not be shipped, under drawback, unless the Manager is satisfied that they cannot conveniently be obtained from a licensed warehouse.

(2) The entry of goods shipped as ships' stores under drawback shall be made in form 35 and in the manner prescribed in regulation 94.

45-46 —

**47 Entry of and payment of duty on stores subject to duty**

(1) Entry of ships' stores as required by section 79 (2) of the Act shall be in forms 13 and 13A.

(2) Entry shall be made and duty paid before clearance of the ship or aircraft from the first port of arrival after the consumption of the stores.

## PART 4

## WAREHOUSES

*Special Provisions as to Manufacturing Warehouses***48 Production of sugar in manufacturing warehouse**

(1) Pursuant to section 80 of the Act the production of sugar in a manufacturing warehouse is permitted.

(2) In this regulation, "sugar" means sugar of any kind, of any degree of polarisation, and includes invert sugar, invert syrup, treacle, molasses, golden syrup, and other products obtained from the refining of sugar.

**49 Manufacture in a manufacturing warehouse of goods containing alcohol**

(1) Pursuant to section 80 of the Act, the manufacture of goods in which alcohol is a necessary ingredient is permitted in a manufacturing warehouse.

(2) For the purposes of this regulation, alcohol means ethyl alcohol, neutral spirit, any other potable spirit, methyl alcohol, and denatured spirit of a kind permitted by the Manager to be used in a manufacturing warehouse.

**50 Manufacture or processing of lubricating oils in a manufacturing warehouse**

Pursuant to section 80 of the Act, the processing or manufacture of petroleum oils from substances, other than used lubricating oil, is permitted in a manufacturing warehouse.

*General Provisions as to Warehouses***51 Annual licence fees for warehouses**

Annual licence fees for warehouses shall be according to the appropriate scale set forth in the Second Schedule together with any additional sum that may be payable pursuant to section 85 of the Act.

**52 Measurement of warehouses**

(1) The cubic content of any warehouse subject to the fee set forth in Part 3 of Schedule 2 shall be the measurement of the internal space.

(2) The measurement of the internal space shall not include –

(a) Any space in excess of 3 metres in height on each floor or storey; or

(b) Any space in the roof above the level of the wall plates.

**53 Marking of warehoused goods**

Before any goods are removed to any warehouse, or immediately after their arrival in any warehouse in such cases as the Manager may permit, the goods or their external containers shall be plainly and permanently marked in such manner as the Manager requires.

**54 Receipt for goods deposited in a warehouse**

The receipt for goods deposited in a warehouse shall be in form 14A.

**55 Repacking in warehouse**

(1) The following classes of goods may be repacked in a warehouse into packages containing not less than the following quantities –

Cigarettes, cigars or snuff: 9kgs

Other manufactured tobacco: 16kgs

Wine or spirits in bulk: 60 litres

Other goods: Into such packages that the duty payable thereon will be not less than \$4;



Provided that goods intended for ships' stores may be repacked into packages containing such quantities as the Manager approves.

(2) Goods repacked in a warehouse shall be labelled or marked in such manner as the Manager approves.

(3) Application for permission to repack goods in a warehouse, and entry for goods repacked in a warehouse, shall be in form 24.

**56 Entry and clearance of warehoused goods: minimum quantities**

The following are the minimum quantities of the classes of goods enumerated below that may be entered for warehousing or cleared from a warehouse on any one of the relevant forms of entry –

Beer in cases: 5 cases

Spirits in cases: 1 case

Bitters, cordials, or liqueurs: 1 case

Other kinds: 4 cases

Spirits in bulk: 60 litres

Wine in cases: 5 cases

Wine in bulk: 60 litres

Cigarettes, cigars or snuff: 9kgs

Other manufactured tobacco: 16kgs

Other goods: in such quantities that the duty payable will be not less than \$4:

Provided that goods may be cleared for export for ships' stores or otherwise, in such quantities as the Manager approves.

**57 Temporary removal of warehoused goods**

Application for the temporary removal of warehoused goods shall be made in form 25.

**58 Clearance of warehoused goods**

Entries for the clearance of warehoused goods shall be in the following forms –

(a) For home consumption, in forms 26 and 26A;

(b) For export, in forms 27, 27A and 27B;

(c) For removal, in forms 28, 28A and 28B or in form 29, as the case requires.

**59 Export or removal of warehoused goods**

Whenever required by the Manager, warehoused goods shall, before entry for export or removal for warehousing elsewhere, be remeasured, reweighed, regauged, retested, or re-examined.

**60 Goods delivered for export or removal, and not shipped**

Goods delivered from a warehouse for export or removal and not shipped shall be returned to the warehouse or accounted for to the satisfaction of the Manager.

**61 Rewarehousing**

Application for rewarehousing, and entry for goods rewarehoused, shall be in form 24.



## PART 5

## DUTIES

*Duties of Excise***62 Value of goods made in a manufacturing warehouse**

Where any goods, not specified in the Third Schedule to the Act, are made in a manufacturing warehouse, and the duty payable thereon is an *ad valorem* duty, the value of the goods shall be the factory cost of those goods, as defined in regulation 73, with the addition of 10 percent of such cost.

*Valuation of Goods***63 Ad valorem declaration**

The declaration in respect of the invoice for and the value of imported goods subject to *ad valorem* duty shall be the declaration prescribed as part of forms 13, 14 and 34.

**64 Form of invoice**

Every invoice for goods imported into Niue shall, except where not so required by the Manager, be in form 55, and shall be accompanied by a certificate of value in form 56 or in that form modified as may be necessary to suit the requirements of any provision of the Act and as approved by the Manager.

**65 Costs of appeals**

The reasonable costs incurred by the Customs in an unsuccessful appeal under section 142 of the Act shall be fixed by the Minister of his delegate as follows –

- (a) The actual disbursements of the Customs; and
- (b) Such travelling or other expenses of any delegates (including officers of Customs) as may be approved; and
- (c) Fees payable to any delegates (not being officers of Customs) at such rate as the Minister determines.

**66 Value for duty of goods re-exported from Australia**

The current domestic value of goods, not being the produce or manufacture of Australia, but imported from Australia into Niue may in the cases specified in regulation 67 be assessed at an amount exceeding by 10 percent the current domestic value of those goods in the country from which they were exported to Australia, at the time of their exportation to Australia.

**67 Cases to which regulation 66 applies**

(1) Assessment of the current domestic value of any goods in accordance with regulation 66 may be made in all cases which comply, to the satisfaction of the Manager with the following conditions –

- (a) That the goods are imported into Niue in the condition in which they were imported into Australia;
- (b) That the original invoice which was produced to the Customs upon entry of the goods in Australia, or a copy of that original invoice or of so much thereof as relates to the goods, certified by a competent Customs authority in Australia to be a true copy in whole or in part of the original invoice, is produced to the proper officer of Customs in Niue together with the invoice for the goods as required by section 137 of the Act;
- (c) That the original invoice, or copy thereof, shows the current domestic value of the goods in the country from which they were exported to Australia, at the time of that exportation;

- (d) That the original invoice has been certified in accordance with the requirements of the Australian or Niue Customs regulations, or otherwise to the satisfaction of the Manager;
- (e) That the current domestic value of the goods, if assessed under regulation 66, would be not less than their current domestic value assessed independently of that regulation if, at the time of their importation into Niue from Australia, they were imported into Niue directly from the country from which they were exported to Australia;
- (f) That the deductions (if any) provided for in section 136 (5) of the Act are made only in respect of sums paid or payable on the goods in the country from which they were exported to Australia.

(2) If the importer satisfies the Manager that the current domestic value of any goods as assessed in accordance with regulation 66 is greater than their current domestic value assessed independently of that regulation, then the Manager may assess the current domestic value of the goods independently of that regulation.

68-79 —

*Assessment and Recovery of Duty*

**80 Strength of spirits**

The strength of spirits shall be ascertained by the use of Sikes's hydrometer, or by such other means as the Manager approves.

**81 Application to retest spirits**

Application to retest spirits in warehouses shall be in form 30.

**82 Minimum duty collectable**

The minimum amount of duty that need be collected on any goods shall be 25c.

**83 Essences, condensations, concentrations**

The standard from which there shall be ascertained the quantity or equivalent of dutiable goods obtainable from any essences, condensations, concentrations, or preparations of dutiable goods shall be the factor ascertained by reference to the Department of Scientific and Industrial Research by which the quantity of any such essence, condensation, concentration, or preparation as aforesaid must be multiplied to arrive at the quantity or equivalent required.

84-85 —

**86 Samples allowed free of duty**

Samples of goods subject to the control of the Customs may, on written application by the owner, be delivered free of duty in such quantities as may be determined by the Manager either generally or in any particular case.

*Refunds and Remissions of Duty***87 Duty paid in error**

The conditions on which refund of duty paid in error may be allowed in accordance with section 172 of the Act are as follows –

- (a) The applications shall be in such form as the Manager may require;
- (b) The importer shall, at his own expense, produce to the Manager or other proper officer such evidence as is required to verify the fact of error and the amount of duty paid in error.

**88 Goods of faulty manufacture**

(1) The conditions on which, and the extent to which, refund or remission of duty may be allowed in accordance with section 173 of the Act on goods of faulty manufacture are as follows –

- (a) Application in such form as the Manager may require shall be made within 3 months after delivery of the goods from the control of Customs;
- (b) The importer shall, at his own expense, produce such reasonable evidence as the Manager requires that any fault in the goods occurred in the course of their manufacture, and that the fault prevents or is likely to prevent the goods from being used for the purpose for which they were designed;
- (c) The goods shall be made available for examination if required by the Manager or other proper officer;
- (d) Refund or remission of duty on the goods shall be allowed in proportion to the extent to which the Manager is satisfied that they have diminished in value by reason of the fault in manufacture:  
Provided that refund or remission of the full duty on the goods shall not be allowed by the Manager unless the goods have been destroyed to his satisfaction.

(2) Notwithstanding anything in paragraph (1), the Manager may, in special cases, grant refund or remission of duty on goods of faulty manufacture even though application has not been made within 3 months after delivery of the goods from the control of the Customs.

**89 Goods damaged or deteriorated in condition**

(1) The conditions on which, and the extent to which, refund or remission of duty may be allowed in accordance with section 173 of the Act on goods damaged or deteriorated in condition are as follows –

- (a) Application shall be made in form 11 within 28 days after delivery of the goods from the control of the Customs;
- (b) The importer shall, at his own expense, produce such reasonable evidence as the Manager requires as to the nature, cause, or extent of the damage or deterioration in condition of the goods;
- (c) The goods shall be made available for examination if required by the Manager or other proper officer;
- (d) Refund or remission of duty on the goods shall be allowed in proportion to the extent to which the Manager is satisfied that they are damaged or deteriorated in condition:  
Provided that the full duty shall not be refunded or remitted unless the goods have been destroyed to the satisfaction of the Manager.

(2) Notwithstanding paragraph (1), the Manager may, in special cases, grant refund or remission of duty on goods damaged or deteriorated in condition even though application therefor has not been made within 28 days after delivery of the goods from the control of the Customs.

**90 Warehoused goods diminished in value**

(1) Application for remission of duty under section 174 of the Act shall be made in such form as the Manager approves.

(2) Remission of duty under section 174 of the Act shall be allowed on warehoused goods liable to *ad valorem* duty in the cases in which and to the extent to which the duty that would be payable on the goods, if exported from the country of exportation to Niue at the time at which application for remission is made, is less than the duty payable on the value of the goods as determined by section 136 of the Act:

Provided that in no case shall the full duty be remitted unless the goods have been destroyed to the satisfaction of the Manager.

(3) The importer shall, at his own expense, produce such reasonable evidence as the Manager requires as to the cause or the extent of the diminution in value.

**91 Goods destroyed, pillaged or lost**

(1) The conditions on which refund or remission of duty may be allowed in accordance with section 175 of the Act on goods destroyed, pillaged, or lost are as follows –

- (a) Application for remission of duty on goods in a warehouse which have been lost through diminution in quantity or weight in a warehouse shall be made in form 30;
- (b) Application for refund or remission of duty on other goods destroyed, pillaged, or lost shall be made, in form 11, within 28 days after delivery of the goods from the control of the Customs;
- (c) Goods in a warehouse shall not, except with the special approval of the Manager be regauged, remeasured, or reweighed before entry for home consumption, unless they have been stored in the warehouse for a period of at least 3 months;
- (d) The importer shall at his own expense, produce such reasonable evidence as the Manager requires as to the cause or extent of any such destruction, pillage, or loss.

(2) Notwithstanding paragraph (1), the Manager may, in special cases, grant refund or remission of duty on goods destroyed, pillaged or lost even though application therefor has not been made within 28 days after delivery of the goods from the control of the Customs.

**92 Materials used in manufacture of agricultural implements, machinery, ships and boats**

Refund of duty under section 180 of the Act on materials used in the manufacture in Niue of agricultural implements, machinery, ships, and boats may be made subject to the following conditions –

- (a) Application shall be made in form 32;
- (b) The applicant shall, at his own expense, produce evidence as to the payment of duty on the materials, the time and place of manufacture, and such other particulars as the Manager requires;
- (c) Except with the special permission of the Manager refund shall not be granted unless application is made within 2 months after the date of completion of manufacture of the agricultural implements, machinery, ships, or boats.

**93 Security for duty on goods temporarily imported**

The return of a deposit or the release of a security taken under section 181 of the Act on any goods temporarily imported, which are required to be exported in accordance with that section, shall be subject to the condition that written notice of not less than 6 working hours shall, if required by the Manager, be given of intention to export the goods.

*Drawback***94 When drawback allowed**

(1) Except as provided in regulation 95 hereof, drawback of the full amount of duty paid may, unless the Manager otherwise directs, be allowed in cases in which the following conditions are complied with –

- (a) Written notice of not less than 6 working hours shall, if required by the Manager be given of intention to ship goods for export under drawback, and the exporter shall pay to the Manager a charge at the rate prescribed in regulation 13 for the time an officer is employed during working hours in the examination of the goods and the relevant documents, together with any expenses incurred as certified by the Manager; and payment of drawback shall not be made until the charge and expenses have been paid:

Provided that the said charge shall not be paid in respect of goods exported by post by any person not engaged in business;

- (b) Where imported goods are exported under drawback, the exporter shall show on the drawback entry the kind, number, and date of the entry on which duty was paid;
- (c) Before examination of any goods for drawback, the exporter shall produce the invoice or invoices (if any) that were produced when the goods were entered for home consumption, together with such other documents or particulars relating to the transaction as the proper officer requires;
- (d) On completion of the packing of the goods, the packages shall, if so required by the Manager be secured and sealed by the proper officer, and be forthwith conveyed to the place of shipment and shipped; or, if not so forthwith conveyed and shipped, the packages shall be removed to some place of security approved by the Manager.

(2) The Manager may, in his discretion, dispense with all or any of the requirements paragraph (1) (b) or (c).

(3) Except in respect of goods exported by post by persons not engaged in business, the drawback claimed in respect of any one entry shall not be less than \$1.

(4) Drawback of the full amount of duty paid on imported raw tobacco may be allowed in accordance with any claim made in form 62, and in any such case paragraph (1) shall not apply.

**95 Conditions governing drawback in special cases**

(1) If the Manager so permits in any particular case, and subject to any conditions imposed by him, drawback may be allowed on the following goods, namely –

- (a) Spirits, spiritous mixtures, wine, tobacco, cigars, cigarettes, or snuff: Provided that where the Manager is satisfied that the goods cannot be conveniently obtained from a warehouse he may allow drawback thereon;



- (b) Goods that have been used in Niue after delivery from the control of the Customs:

Provided that goods which the Manager is satisfied have been temporarily used only for trial, inspection, or demonstration shall not be deemed to have been used within the meaning of this paragraph;

- (c) Goods that have been damaged or have deteriorated in condition, after removal from the control of the Customs;
- (d) Goods the current domestic value of which, if sold duty-paid for home consumption in Niue at the time of application for drawback, would be less than the amount of drawback for which claim can be made;

- (e) The goods described in section 183 (1)(c) of the Act.

(2) When the approval of the Manager is necessary under this regulation for the allowance of drawback on any goods, no person shall make entry for the goods under drawback until that approval is obtained.

(3) Unless the Manager otherwise permits, regulation 94 shall apply to the goods described in this regulation.

#### **96 Manager may waive non-compliance with conditions**

The Manager may, on such conditions as he thinks fit, allow payment of drawback, although the provisions of these Regulations in respect thereof have not been strictly complied with.

#### **97 Entry for drawback**

(1) In the case of imported raw tobacco used in the manufacture of tobacco in a tobacco-manufacturing warehouse, the delivery of form 62 to the Manager or other proper officer shall be deemed to be entry for drawback of any goods in respect of which Part B of that form is completed.

(2) In the case of any other goods, entry for drawback shall be made in form 35 and delivered to the Manager or other proper officer.

#### **98 Reimportation of goods exported under drawback**

(1) Subject to the conditions set out in paragraph (2), the following classes of goods may be reimported into Niue notwithstanding that they have been exported under drawback –

- (a) Ships' stores of the kind referred to in regulation 41 (a);
- (b) Travellers' samples;
- (c) Goods exported for sale or return;
- (d) Goods the delivery of which has been refused by the consignee;
- (e) Goods which the Manager, in any special case, may permit to be reimported.

(2) The conditions referred to in paragraph (1) –

- (a) The Manager may require the importer to produce at his own expense such reasonable evidence as is necessary to establish the qualification of the goods to be reimported under this regulation;
- (b) Duty shall be paid thereon as if the goods were being imported for the first time:

Provided that, unless the Manager otherwise directs, the duty payable thereon shall be not less than the amount of drawback that was allowed on the exportation of the goods.

## PART 6

## TOBACCO

**99 Returns of tobacco, and materials other than tobacco, used in manufacture**

The licensee of every tobacco-manufacturing warehouse shall, within 15 days after the end of every month, send to the Manager in forms 62 and 63, extracts of the accounts of all tobacco and other materials received into his warehouse and used in the manufacture of tobacco.

100 —

## PART 7

## METHYLATED SPIRIT

*General Provisions as to Methylation***101 Minimum strength for spirit**

(1) No person shall methylate any spirits that are of a lower strength than 50 over proof as ascertained by Sikes's hydrometer.

(2) No person shall use for the purpose of methylation any wood naphtha, pyridine, or methyl violet dye that has not been approved by the Manager.

**102 Samples of substances for purposes of methylation**

(1) Samples of wood naphtha, pyridine, or methyl violet dye to be submitted for approval must be drawn and sealed in their containers in the presence of an officer of Customs.

(2) Such samples must not be less than 300 millilitres in the case of wood naphtha and pyridine and 15 grams in the case of methyl violet dye, and the container must bear a label setting forth the marks and numbers of the packages of importation, the name of the manufacturer or supplier of the goods, and the name of the country of origin of the goods.

(3) The label must also bear the initials of the officer in whose presence the samples were drawn.

(4) After the samples are drawn the bulk goods represented by the samples must forthwith be stored in a place of security approved by the Manager:

Provided that wood naphtha, pyridine, and methyl violet dye in vessels that can be securely sealed to the satisfaction of the Manager may be delivered from Customs control when the vessels have been sealed with the Customs seal.

**103 Standard for wood naphtha**

(1) No wood naphtha shall be approved for use in methylation, unless it contains –

- (a) Not less than 72 percent by volume of methyl alcohol;
- (b) Not more than 12 grammes per 100 c.c. of acetone, aldehydes, and higher ketones, estimated as "acetone" by the formation of iodoform according to Messinger's method;
- (c) Not more than 3 grammes per 100 c.c. of esters, estimated as methylacetate by hydrolysis.

(2) Wood naphtha for use in methylation shall also comply with the following tests –

- (a) Not more than 30 c.c. of the naphtha shall be required to decolourise a solution containing 0.5 grammes of bromine;
- (b) The naphtha, which must be neutral or only slightly alkaline to litmus, shall require at least 5c.c. of decinormal acid to neutralise 25 c.c. of the naphtha when methyl orange is used as the indicator.



**104 Standard for pyridine**

No pyridine shall be approved for use in methylation, unless it consists of the bases derived from coal tar and unless it conforms to the following tests –

- (a) It shall not be more deeply coloured than a solution of 2 ml of decinormal iodine dissolved in 1 litre of water;
- (b) It shall mix readily and completely with spirits, and shall give a clear or only slightly opalescent solution when mixed with twice its volume of water;
- (c) 10ml of a 1-percent solution of the pyridine in water on vigorous shaking, after the addition of 5 ml of an aqueous solution of cadmium chloride containing 5 grammes of the anhydrous fused salt in 100 ml, shall produce immediately a distinct crystalline precipitate and an abundant separation of crystals within 10 minutes;
- (d) A white precipitate shall be formed when 10 ml of a 1-percent solution of the pyridine in water are mixed with 5 ml of Nessler's reagent;
- (e) 1 ml of crude pyridine dissolved in 10 ml of distilled water shall require not less than 9.5 ml of normal sulphuric acid for neutralisation, using Congo Red paper as the indicator;
- (f) 100ml slowly heated under the conditions laid down for benzol for motor fuel by the British Engineering Standards Association (B.S. Specification 658 of 1962) shall give a distillate of at least 50 ml at a temperature of 140°C and of 90 ml at 160°C.

**105 Standard for methyl violet dye**

No methyl violet dye shall be approved for use in methylation, unless it is of the standard of the aniline dye referred to as Basic Violet 1 in the Colour Index 42535 (second edition).

**106 Manufacture, use, and sale of methylated spirit**

(1) No person shall manufacture any kind of methylated spirit other than one of the kinds referred to in regulations 107, 109, 112, 114, 121, and 124.

(2) No person shall manufacture any kind of methylated spirit otherwise than with the ingredients, and the proportions of the ingredients, prescribed by or under such one of the regulations referred to in paragraph (1) as is applicable to that kind of methylated spirit.

(3) No person shall manufacture any methylated spirit except under the supervision of an officer of Customs.

(4) No person shall manufacture, use, sell or otherwise dispose of any methylated spirit except in compliance with the succeeding provisions of this Part so far as they are applicable.

**107 Completely denatured spirit**

Methylated spirit (hereinafter referred to as completely denatured spirit) for sale without restriction, save as provided by regulation 108 may be made by the admixture of the following ingredients in the following proportions –

Ethyl alcohol or neutral spirit: 100 litres

Approved wood naphtha: 5 litres

Approved pyridine: Not less than 500 millilitres

Methyl violet: 156 milligrams

**108 Containers of denatured spirit to be labelled**

(1) Every vendor of completely denatured spirit shall, before the sale cause each vessel containing the spirit to have securely attached to it a label with the following words printed on it and conforming to paragraph (2).

Methylated Spirit  
POISONOUS  
NOT TO BE TAKEN INTERNALLY

If so taken it may cause blindness or death, and it will induce general physical decay.

(2) On the label the word "POISONOUS" and the words "NOT TO BE TAKEN INTERNALLY" shall be printed in bold sans serif capital letters not less than 3mm in height.

*Methylated Spirit (Pyridinised)***109 Ingredients**

Methylated spirit (hereinafter referred to as methylated spirit (pyridinised)) may be made by the admixture of the following ingredients in the following proportions –

Ethyl alcohol or neutral spirit: 100 litres

Approved wood naphtha: 5 litres

Approved pyridine: Not less than 500 millilitres

**110 Manufacture and disposal**

(1) No person shall manufacture, sell, or otherwise dispose of any methylated spirit (pyridinised) except –

(a) For use by a person on his own premises and in the manufacture of varnishes, lacquers, and stains, or such other articles or goods as may be approved by the Manager; or

(b) For such other special purposes as the Manager approves.

(2) No person shall sell or otherwise dispose of any methylated spirit (pyridinised) in a package, unless before delivery the package is distinctly marked "Methylated spirit (pyridinised)".

(3) No person shall manufacture, sell, or otherwise dispose of any methylated spirit (pyridinised), except in such quantity as the Manager may direct or permit.

(4) No person shall sell or otherwise dispose of any methylated spirit (pyridinised) unless –

(a) There is first produced to him by the purchaser or person acquiring it a written permit from the Manager authorising the acquisition of the quantity to be supplied; and

(b) He endorses on the permit the date of supply and the quantity supplied by him, and verifies the endorsement by signing it.

(5) For the purposes of paragraph (4)(a) the quantity for the time being authorised by any such permit to be acquired shall be that remaining after the deduction from the quantity originally stated therein of the quantities of all acquisitions thereunder of which particulars have been noted on the permit.

**111 Purchase and use**

(1) No person shall purchase or otherwise acquire any methylated spirit (pyridinised), except in pursuance of a written permit so to do issued to him by the Manager and for the purpose set out in the permit.

(2) Before a permit to purchase is issued to any person under this regulation, he shall make a declaration under the Customs Acts that he will use the spirit only on his own premises and in the manufacture of varnishes, lacquers, and stains, or such other articles or goods as the Manager approves, or for such other special purposes as the Manager approves, and that he will not sell or otherwise dispose of any such spirit except on the production by the purchaser or person acquiring it of a written permit from the Manager authorising the purchase or acquisition.

(3) No person shall use any methylated spirit (pyridinised), except on his own premises and in the manufacture of varnishes, lacquers, and stains, or such other articles or goods as the Manager approves, or for such other special purposes as the Manager approves.

*Methylated "Finish"***112 Ingredients**

Methylated spirit (hereinafter referred to as methylated "finish" without pyridine) for sale without restriction, save as provided by regulation 113 hereof, may be made by the admixture of the following ingredients, in the following proportions –

Ethyl alcohol or neutral spirit: 100 parts by volume

Approved wood naphtha: 5 parts by volume

Shellac copal or other resins: At least 10 parts by weight to every 100 parts by weight of the rectified spirit.

**113 Sale or disposal**

No person shall sell or otherwise dispose of any methylated "finish" without pyridine in a package, unless before delivery –

- (a) All resins therein have been dissolved to the satisfaction of the supervising officer; and
- (b) The package is distinctly marked "Methylated finish W.P." or "Methylated finish without pyridine".

*Methylated Spirit Without Pyridine (W.P.)***114 Ingredients**

Methylated spirit (hereinafter referred to as methylated spirit W.P.) may be made by the admixture of the following ingredients in the following proportions –

Ethyl alcohol or neutral spirit: 100 litres

Approved wood naphtha: 5 litres

**115 Manufacture and disposal**

(1) No person shall manufacture, sell, or otherwise dispose of any methylated spirit W.P., except –

- (a) For use by a person on his own premises in the manufacture of varnishes, lacquers, stains, and polishes; or
- (b) For use in furniture polishing; or
- (c) For use by a person on his own premises in the manufacture of other articles or goods approved by the Manager; or
- (d) For such other special purposes as the Manager approves.

(2) No person shall sell or otherwise dispose of any methylated spirit W.P. in a package, unless before delivery the package is distinctly marked "Methylated spirit W.P. for furniture polishing" (or otherwise as the case may require).

(3) No person shall manufacture, sell or otherwise dispose of any methylated spirit W.P., except in such quantity as the Manager directs or permits.

(4) No person shall sell or otherwise dispose of any methylated spirit W.P. unless –

(a) There is first produced to him by the purchaser or person acquiring it a written permit from the Manager authorising the acquisition of the quantity to be supplied; and

(b) He endorses on the permit the date of supply and the quantity supplied by him, and verifies the endorsement by signing it.

(5) For the purposes of paragraph (4)(a) the quantity for the time being authorised by any such permit to be acquired shall be that remaining after the deduction from the quantity originally stated therein of the quantities of all acquisitions thereunder of which particulars have been noted on the permit.

#### **116 Purchase and use**

(1) No person shall purchase or otherwise acquire any methylated spirit W.P., except in pursuance of a written permit so to do issued to him by the Manager and for the purpose set out in the permit.

(2) Before a permit to purchase is issued to any person under this regulation, he shall make a declaration under the Customs Acts that he will use the spirit only for a purpose to be named therein, being such one or more of the following purposes as is set out in the permit, namely –

(a) For use on his own premises in the manufacture of varnishes, lacquers, stains, and polishes;

(b) For use in furniture polishing;

(c) For use on his own premises in the manufacture of other articles or goods approved by the Manager;

(d) For such other special purposes as the Manager may approve –

and that he will not sell or otherwise dispose of any methylated spirit W.P. acquired by him under the permit, except on the production by the purchaser or person acquiring it of a written permit from the Manager authorising the purchase or acquisition.

(3) Before a permit to purchase is issued to any person under this regulation, he shall, if the Manager so requires, give security that the spirit will not be used or disposed of otherwise than in terms of the declaration under the Customs Acts prescribed by paragraph (2).

(4) No person shall use any methylated spirit W.P. purchased or otherwise acquired by him in pursuance of a permit issued under this regulation, otherwise than for the purpose set out in the permit.

#### **117 Record of manufacture, purchase, sale and use**

(1) Every manufacturer or holder for sale of any methylated spirit W.P. shall keep on the premises where the spirit is kept a book (which shall be open to inspection by any officer of Customs) in which he shall enter with respect to all such spirit the following particulars –

(a) The quantity manufactured or purchased;

(b) The date of manufacture or purchase;

(c) The name and address of the person to whom delivered;

(d) The quantity delivered;

(e) The date of delivery.

(2) The entries specified in paragraph (1)(a) and (b) shall be made not later than the day following the date of manufacture or purchase; and the entries specified in paragraph (1)(c), (d), and (e) shall be made not later than the day following the date of delivery.

- (3) Every person by whom methylated spirit W.P. is used –
- (a) In the manufacture of varnishes, lacquers, stains, and polishes; or
  - (b) In the manufacture of other articles or goods approved by the Manager;

shall keep on the factory premises a book in which, immediately on receipt of any methylated spirit W.P. he shall enter particulars thereof. He shall also immediately after use of methylated spirit W.P. enter in that book the quantity used. The book shall be open to inspection by any officer of Customs, who shall be permitted to check the balances shown therein with the stock of methylated spirit on hand: Provided that this paragraph may, in the discretion of the Manager, be waived in the case of persons using less than 20 litres a month of methylated spirit W.P. for approved purposes.

(4) Every person required to keep a book pursuant to this regulation shall keep the book for a period of 2 years from the date of the last entry therein or until he ceases at an earlier date to carry on business in the premises where the book is kept, and in the latter event shall deposit the book with the Manager for custody and reference.

#### **118 Place of security**

Every holder of methylated spirit W.P. for sale or for manufacturing purposes shall provide a room or place of security for the storage of the spirit, subject to the approval of the Manager and to such conditions as the Manager considers necessary.

#### **119 Partially manufactured products**

No manufacturer of varnishes, lacquers, stains, or polishes, or of other articles or goods approved by the Manager, shall sell or otherwise dispose of any partially manufactured products containing methylated spirit W.P.

#### **120 Manufacture under supervision**

The Manager may direct that any articles or goods in the manufacture of which the use of methylated spirit W.P. is approved shall be manufactured under the supervision of an officer of Customs and that delivery of such articles or goods from Customs control shall not be made until the ingredients used in manufacture have come into solution, or until the process of maceration or of percolation (where necessary) is complete.

### *Spirit Methylated with Phenol*

#### **121 Ingredients**

Methylated spirit (hereinafter referred to as spirit methylated with phenol) may be made by the addition to ethyl alcohol or neutral spirit of 1 percent by volume of absolute phenol.

#### **122 Manufacture and disposal**

(1) No person shall manufacture, sell, or otherwise dispose of any spirit methylated with phenol, except for use in a public or private hospital.

(2) No person shall dispose of any package containing spirit methylated with phenol unless, before delivery, the package is distinctly marked "Methylated spirit for exclusive use in hospitals".



(3) No person shall manufacture, sell, or otherwise dispose of any spirit methylated with phenol, except in such quantity as the Manager directs or permits.

(4) No person acting on behalf of any public or private hospital shall purchase spirit methylated with phenol, except in pursuance of a written permit so to do issued by the Manager to the chief medical officer of the public hospital or to the licensee of the private hospital. Before any such permit issued, the chief medical officer of the public hospital or the licensee of the private hospital shall make a declaration under the Customs Acts that the spirit will be used exclusively for bona fide hospital purposes other than the manufacture or compounding of medicines, medicaments, medicinal preparations, or spiritous iodine solutions.

(5) No person shall use any spirit methylated with phenol otherwise than for bona fide hospital purposes, and no person shall use any spirit methylated with phenol for the manufacture or compounding of medicines, medicaments, medicinal preparations, or spiritous iodine solutions.

### **123 Provisions as to methylated spirit W.P. to apply to spirit methylated with phenol**

Regulation 117 (1), (2) and (4) and regulation 118, as far as they are applicable and with the necessary modifications, shall apply with respect to spirit methylated with phenol and to every manufacturer and holder for sale of spirit methylated with phenol.

#### *Miscellaneous Provisions*

### **124 Other formulas**

Methylated spirit may be made in accordance with any other formula approved in writing by the Manager and setting out the ingredients and proportions of ingredients thereof, but only for such purposes and on and subject to such conditions as the Manager in writing permits or imposes.

### **125 Revocation of approval or permit**

Any approval granted by the Manager under this Part with respect to the methylation of spirit or the use of such spirit in the manufacture of articles or goods, and any permit issued by the Manager under this Part, may be revoked at any time.

### **126 Fee for officer's time**

Charges at the rates prescribed by these Regulations shall be paid to the Manager for the time an officer of Customs is employed in supervising the manufacture or delivery of any methylated spirit, "finish", or other articles or goods made under the authority of this Part.

## **PART 8**

### **POWERS OF OFFICERS OF CUSTOMS**

### **127 Taking of samples**

(1) When it is deemed necessary to take samples pursuant to section 221 of the Act the importer or his agent shall be advised that it is intended to take such samples.

(2) Such samples shall be taken only in the presence of the importer or his agent, except in cases where the Manager may consider it impracticable to do so.

**128 Use of samples**

Samples taken in accordance with section 221 of the Act, or provided by the importer in accordance with section 61 of the Act, shall be used in whatever manner is deemed by the Manager or other proper officer to be most suitable to achieve the purpose for which they were taken or provided.

**129 Disposal of samples**

(1) When not further required, all samples taken pursuant to section 221 of the Act, and not consumed or destroyed in the process of examination, weighing, analysis, or testing, shall, on application by the importer, be returned to him.

(2) If no application is received within 1 month after the results of the examination, weighing, analysis, or testing have been known to the importer, or if, after any application is so received, the goods are not removed within a further month by the importer, they may be sold or destroyed by the Manager as he thinks fit.

**130 Examination, measurement of goods**

With the consent of the importer, the Manager may, in his discretion, permit any person to measure, count, weight, gauge, test, or examine any goods subject to the control of the Customs.

PART 9  
AGENTS AND CARRIERS  
*Agents*

**131 Approval of employees as agents**

The Manager may, on application made in writing in such form as he may require by any licensed Customs agent, approve of any servant or clerk, in the exclusive employment of that Customs agent, acting as agent in accordance with section 231 (1) of the Act.

**132 Customs agents' licences**

For the purposes of section 231 of the Act, the Manager may on written application, and in accordance with this Part of these regulations, grant to any person a Customs agent's licence of one of the following kinds –

- (a) A Customs agent's licence (Individual);
- (b) A Customs agent's licence (General);
- (c) A Customs agent's licence (Restricted).

**133 Customs agent's licence (Individual)**

(1) A Customs agent's licence (Individual) may be granted to any individual in respect of whom the Manager is satisfied that he is the holder of a New Zealand Certificate in Commerce (Customs option) issued by the Technicians Certification Authority of New Zealand.

(2) The Manager may, in his discretion, grant a Customs agent's licence (Individual) to an individual who is not the holder of such a certificate as aforesaid, if in the Manager's opinion special circumstances exist that justify the grant of the licence.

(3) A Customs agent's licence (Individual) shall authorise the holder, pursuant to the terms of the licence, to carry on the business of a Customs agent at any port of entry.



**113A Customs agent's licence (General)**

(1) A Customs agent's licence (General) may be granted to any company within the meaning of the Companies Act 2006 or any overseas company within the meaning of that Act which is carrying on business in Niue in respect of which the Manager is satisfied that it has in its employment, at every port of entry at which it carries on or intends to carry on business as a Customs agent, at least one person who is the holder of a Customs agent's licence (Individual).

(2) Subject to this regulation, a Customs agent's licence (General) shall authorise the company holding it to carry on the business of a Customs agent at any port of entry.

(3) It shall be a condition of the licence that the company holding it shall not carry on the business of a Customs agent at any port unless it has in its employment at that port at least one person who is the holder of a Customs agent's licence (Individual).

(4) Notwithstanding anything in the foregoing provisions of this regulation, the Manager may at any time in his discretion, and subject to such conditions as he thinks fit, by writing authorise the company holding the licence to carry on the business of a Customs agent at any specified port notwithstanding that there is not in the company's employment at that port a person holding a Customs agent's licence (Individual). Any such authority may at any time in like manner be revoked or varied.

**133B Customs agent's licence (Restricted)**

(1) A Customs agent's licence (Restricted) may be granted, subject to such conditions as the Manager thinks fit, to any individual or company or body corporate.

(2) A Customs agent's licence (Restricted) shall authorise the holder to act as a Customs agent in respect of such transactions, or for such purposes, or in such circumstances, and subject in any case to such conditions, as may be specified in the licence.

**133C Applications for licences**

Every applicant for a Customs agent's licence shall supply to the Manager such information as he may reasonably require for the purposes of this Part.

**133D Refusal of licence**

Notwithstanding anything in the foregoing provisions of this Part, the Manager may refuse to grant an application for any Customs agent's licence if –

- (a) The applicant has been convicted of an offence against any of the Customs Acts, or of any offence involving dishonesty; or
- (b) The Manager is satisfied on reasonable grounds that the applicant is not a fit person to act as a Customs agent, by reason of bad character, or incompetence, or insufficient practical experience in the kind of work normally carried on by Customs agents.

**133E Variation of licence**

(1) Subject to regulation 133G the Manager may from time to time, by notice in writing to the holder of any Customs agent's licence, vary or revoke any condition specified in the licence, or add any new condition.

(2) Subject as aforesaid, every such notice shall have effect according to its tenor and shall be deemed to be part of the licence.

**133F Revocation or suspension of licence**

(1) Subject to the provisions of this regulation and regulation 133G the Manager may at any time revoke or suspend any Customs agent's licence on any one or more of the following grounds, namely –

- (a) That any condition of the licence has not been or is not being complied with;
- (b) That the holder has been convicted of an offence against any of the Customs Acts or of any offence involving dishonesty;
- (c) That in the opinion of the Manager, based on reasonable grounds the holder is incompetent, or has been guilty of misconduct or grave impropriety in connection with the carrying out of any transaction as a Customs agent, and for that reason is not a fit person to continue to act as a Customs agent;
- (d) That, in the case of a Customs agent's licence (Restricted), the holder has acted as a Customs agent in respect of any transaction, or for any purpose, or in any circumstances, not for the time being specified in the licence.

- (2) Before deciding to revoke or suspend the licence the Manager shall –
  - (a) Give to the holder of the licence not less than 21 days notice in writing stating his intention to revoke or suspend it, and specifying briefly the grounds of the proposed revocation or suspension;
  - (b) Consider any representations that may be made to him by or on behalf of the holder within the period of the notice or such further period as the Manager may allow;
  - (c) If the holder so requests, afford him an opportunity of being heard within such period or further period as aforesaid.

(3) Notwithstanding any provisions of this regulation by any such notice the Manager may withdraw the licence forthwith pending his decision whether to revoke or suspend it; and while the licence is so withdrawn the holder shall be deemed not to be a licensed Customs agent.

(4) If the Manager decides to revoke or suspend the licence he shall give written notice of the revocation or suspension as the case may be to the holder.

(5) The period of suspension of any Customs agent's licence shall in no case exceed 1 year.

**133G Appeals**

(1) If the Manager –

- (a) Under regulation 133D refuses to grant an application for a licence;  
or
- (b) Under regulation 133E varies or revokes any condition specified in a licence or adds any new condition; or
- (c) Under regulation 133F revokes or suspends a licence –

the applicant or, as the case may be, the holder of the licence may, within 14 days after notice of the Manager's decision is received by him, appeal to the Court, by way of originating application, against the Manager's decision.

(2) On the hearing of the appeal the Court, whose decision shall be final, may confirm or reverse or modify the Manager's decision.

**134 Security by agents**

Before any such licence is granted, the applicant shall give security to the satisfaction of the Manager.

**135 Licence fee**

(1) There shall be payable to the Manager in respect of every Customs agent's licence an annual fee of \$2.

(2) The fee shall be payable on the first issue of the licence, and also on or before the 15th day of January in each succeeding year until the licence is given up or cancelled.

(3) The Manager may cancel any licence in respect of which the annual fee remains unpaid for 30 days after it becomes due.

*Customs Carriers***136 Customs carriers**

The Manager may, on written application, grant a licence to any person approved by him to act as a Customs carrier.

**137 Revocation of carrier's licence**

Any Customs carrier's licence may be revoked by the Manager by order in writing; but the licensee may, within 14 days after notice of the revocation, appeal to the Minister against the order, and the Minister's decision thereon shall be final.

**138 Security by carriers**

Before any Customs carrier's licence is granted, the person applying for the licence shall, when the Manager so requires, give security to the satisfaction of the Manager in such form as the Manager may require.

PART 10  
FORFEITURES

**139 Notice of seizure**

Notice of seizure of any goods that have been seized as forfeited shall be in form 51.

**140 Notice to dispute forfeiture**

Notice to dispute the forfeiture of goods seized shall be in form 52.

PART 11  
MISCELLANEOUS PROVISIONS  
*Declarations*

**141 Form of declarations**

All declarations required or authorised by the Customs Acts shall, when not elsewhere prescribed, be in form 54.

**142 Verification of information by declaration**

Any information required or authorised by these Regulations shall, when deemed necessary by the Manager, be verified by declaration in form 54.

*Special Provisions as to the Post Office***143 "Postal packet" defined**

For the purposes of regulations 144 to 148 "postal packet" means any letter, parcel, packet, or other article whatever received or transmitted by or through the Post Office.

**144 When entry for postal packets not required**

(1) Except when required by the Manager it shall not be necessary for any importer to make entry for postal packets in the following cases –

- (a) When the current domestic value of the goods imported by him by any one mail is less than \$20; or
- (b) When the importer is a person not engaged in business and the goods are exempt from the requirement of a licence to import under any law for the time being in force relating to import control; or
- (c) When the duty on the goods is paid by some person outside Niue.

(2) In such cases the postal packets shall be deemed to have been entered for home consumption when application is made by the importer for their delivery.

**145 Powers of officers of Post Office**

Officers of the Post Office may, in respect of postal packets, exercise or perform for the purposes of the Customs Acts all or any of the powers or duties of any importer or exporter, and, with the consent of the Manager, of those of an officer of Customs.

**146 Disposal of postal packets by Postmaster**

When entry of any postal packet is not made within the prescribed time or within such further time as the Manager may see fit to allow, the Manager may permit the Postmaster to return the postal packet to the sender.

**147 Several postal packets may be treated as a single package**

Postal packets posted by any one exporter, whether addressed to the same or different persons, may, if the Manager so directs, be treated for the purposes of the Customs Acts as a single package consigned to a single person.

**148 Person forwarding packets may be treated as importer**

For the purposes of the Customs Acts the person forwarding postal packets to Niue may, if the Manager so decides, be deemed to be the importer of the goods.

**149 Exemption from entry**

(1) In such cases as may be approved by the Manager, it shall not be necessary for any exporter to make entry for export of any goods exported by post.

(2) Any goods to which paragraph (1) applies shall be deemed to have been entered for export when they have been accepted for posting by the Post Office.

*Miscellaneous Provisions*

**150 Persons engaged in business**

If any dispute arises as to whether any person is engaged in business for the purposes of these Regulations, the Manager's decision thereon shall be final.

**151 Offences and penalties**

(1) Every person commits an offence who does any act in contravention of or fails to comply with any provision of these Regulations.

(2) Every person who commits an offence against these Regulations is liable on summary conviction to a fine not exceeding one penalty unit.

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## SCHEDULES

## SCHEDULE 1

[Revoked]

## SCHEDULE 2

## SCALES OF ANNUAL FEES FOR WAREHOUSES

## Part 1

*Scale of fees for warehouses licensed for the warehousing of liquids other than ethyl alcohol, neutral spirit, or any other potable spirit.*

Cubic Content of Warehouse	Annual Fee
	\$
Less than 240,000 litres	60
Not less than 240,000 litres and less than 600,000 litres	100
Not less than 600,000 litres and less than 1,200,000 litres	200
Not less than 1,200,000 litres and less than 1,800,000 litres	300
Not less than 1,800,000 litres and less than 2,400,000 litres	400
Not less than 2,400,000 litres	500

## Part 2

*Scale of fees for warehouses licensed as tobacco-manufacturing warehouses.*

Where the total quantity of tobacco, cigars, cigarettes, and snuff manufactured –	Annual Fee
Does not exceed 23,000kg	\$200
Exceeds 23,000kg but does not exceed 46,000kg	\$300
Exceeds 46,000kg but does not exceed 920,000kg	\$300 plus \$80 for each 46,000kg in excess of 46,000kg
Exceeds 920,000kg but does not exceed 2,300,000kg	\$1820 plus \$40 for each 46,000kg in excess of 920,000kg
Exceeds 2,300,000kg	\$3020 plus \$20 for each 46,000kg in excess of 2,300,000kg

Provided that –

- (a) Where the total quantity of manufactured tobacco produced during any year is found to be greater than that for which the fee was computed the licensee shall be liable for the proper fee for such greater quantity;
- (b) Where the total quantity of manufactured tobacco produced during any year is found to be less than that for which the fee was computed the Manager may refund the difference between the fee paid for that year and the fee that would have been payable if calculated on the basis of the total quantity of manufactured tobacco actually produced during the year.

## Part 3

*Scale of fees for warehouses not subject to the fees set out in Parts 1 and 2 of this Schedule*

Cubic Content of Warehouse	Annual Fee
Less than 240 m <sup>3</sup>	150
Not less than 240 m <sup>3</sup> and less than 600 m <sup>3</sup>	250
Not less than 600 m <sup>3</sup> and less than 1,200m <sup>3</sup>	500
Not less than 1,200 m <sup>3</sup> and less than 1,800 m <sup>3</sup>	750
Not less than 1,800 m <sup>3</sup> and less than 2,400 m <sup>3</sup>	1,000
Not less than 2,400 m <sup>3</sup>	1,250

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## SCHEDULE 3

Regs 70, 71

## LIST OF PARTLY MANUFACTURED MATERIALS REFERRED TO IN REGULATIONS 70 AND 71

Abrasive materials, including corundum, alundum, carborundum, emery and similar materials;  
Argols;  
Asbestos, fibre;  
Asphalt, bitumen, tar and pitch;  
Barium carbonate, barium sulphate;  
Bromine and iodine;  
Camphor, laurel, crude;  
Carbon-black or gas-black;  
Cellulose acetate film base;  
Cherries in brine;  
Coir yarn;  
Cork strip for tipping cigarettes;  
Dyes and vegetable substances used in making dyes;  
Earth colours, dry ground;  
Fibres, natural, animal or vegetable, even though sorted, dressed, scoured, or similarly treated, including raw silk, organzine, tram silk, grege, poil, crepe, grenadine, and single sun schappe yarn;  
Graphite, natural or artificial, in powder form;  
Greenstone and precious stones cut and/or polished;  
Gums and resins, refined;  
Hides and skins, with or without wool or hair, salted, or pickled;  
Isinglass;  
Lemon or orange rinds in brine;  
Liquorice extract, in bulk;  
Magnesite, calcined;  
Meats and fish, fresh, chilled or frozen;  
Metals in the form of pigs or ingots or in cruder forms (e.g. mattes, concentrates, regulus), mercury; copper or zinc in bars, blocks, cakes and slabs; iron or steel blooms, billets, or slabs; iron bars (Swedish) made from iron puddled with charcoal; ferro-silicon; metal scrap, suitable for resmelting;  
Nitrocellulose film base;  
Oils, essential, natural; oil of turpentine;  
Oils, viz., whale oils and fish oils, crude; Chinese wood-oil, palm oil, olive oil, crude or refined;  
Potassium, chloride and sulphate of;  
Rags, or waste, cotton or linen, for respinning or for paper and pulp making;  
Rags, woollen, for respinning or for making flock;  
Rubber, viz., crepe rubber, guttapercha and balata, crude;  
Sodium nitrate;  
Sponges, unbleached;  
Strawboard (of Dutch type);  
Sugar, unrefined, and molasses;  
Sulphur, in blocks;  
Tanning extracts, vegetable;  
Tanning materials, vegetable, viz., barks, sumach, gambier, and similar materials, ground or powdered;  
Timber, hewn or rough-sawn; also brier-root or similar blocks, rough-shaped for making tobacco pipes;  
Titanium oxide;  
Waxes, animal, mineral or vegetable, refined or unrefined;

Wood-pulp, chemical or mechanical.

Note – The following are regarded as examples of unmanufactured raw materials for the purposes of these Regulations;

Natural products (e.g. minerals; animals; plants, shrubs, trees, vegetables, or parts thereof such as leaves, barks, fruit, pods, nuts, nut kernels, or roots) which have not been subjected to any industrial process or processes except (a) those primary processes whereby natural products are ordinarily obtained from the farm, mine, forest, fisheries, etc., and (b) the processes of cleaning, separating, sorting and drying, and of the killing of animals. For example –

Bones, hoofs and horns; tusks (ivory)

Cork, unmanufactured

Grain or seeds, leaned or graded, but otherwise unmanufactured

Logs, unwrought

Ores, metallic

Petroleum, crude

Salt, rick

Skins, raw or sun-dried

Wool, greasy, washed or scoured

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## EXPORT LICENCES REGULATIONS 1966

SR1966/90 – 8 June 1966

### 1 Title

These are the Export Licences Regulations 1966.

### 2 Interpretation

In these regulations –

“goods” means all kinds of personal property, and includes any ship and any animal;

“Minister” means the Minister of Customs.

### 3 Goods not to be exported without licence

(1) Except as provided in regulation 11 no goods shall be exported from Niue except in accordance with these regulations and with the terms of a licence issued under this regulations.

(2) These regulations shall apply with respect to the export of any goods, notwithstanding that a licence or other authority for the export of the goods may be in force under any Act or under any regulations other than these regulations.

(3) The issue of a licence under these regulations with respect to any goods shall not absolve any person from the obligation to comply with the requirements of any Act or of any other regulations with respect to the export of the goods.

### 4 Kinds of licences

(1) A licence under these regulations may be –

- (a) A particular licence; or
- (b) A general licence; or
- (c) A purchaser’s licence.

(2) A particular licence shall be a licence to export the goods specified therein in a ship or aircraft specified therein.

(3) A general licence shall be a licence to export goods from Niue during a specified period. Any such licence shall, according to its tenor, apply with respect to goods of all kinds, or be limited to the specified kind or specified kinds of goods mentioned therein.

(4) A purchaser’s licence shall be a licence to export from Niue any goods that have been purchased in Niue out of any credit or currency made available in Niue in exchange for any overseas credit or currency, in order to provide for the purchase of the goods for export.

### 5 Applications for licences

(1) Application may be made –

- (a) For a particular licence or a purchaser’s licence to the Manager with whom the entry for export is to be lodged.
- (b) For a general licence, to the Manager.

(2) Every application for a particular licence or a purchaser’s licence shall be made on the entry.

(3) Every application for a general licence shall be made in quadruplicate.

**6 Forms of applications and licences**

Every application and any licence granted shall be –

- (a) In the case of a particular licence and a purchaser's licence, included in form 22, 27, or 35 as the case may require, being forms 22, 27 and 35 within the meaning of the Customs Regulations 1968;
- (b) In the case of a general licence, in form 2 in the Schedule.

**7 Grant or refusal of licence**

The Manager may grant any licence applied for or decline to grant it.

**8 Revocation of general licence**

(1) Any general licence may at any time be revoked by the Manager if he thinks fit.

(2) On the revocation of a general licence the Manager shall forthwith give to the licensee notice in writing of the revocation and of the date when the revocation has become or becomes effective.

**9 Security may be required**

(1) Before any licence is issued under these regulations the applicant for the licence shall, if required to do so by the Manager, give security for compliance with the terms of the licence and with the requirements of these regulations.

(2) Unless in any case some other security is accepted as sufficient by the Manager, the security referred to in paragraph (1) shall be a bond, in such form as the Manager approves, executed in favour of the Government of Niue by the applicant and by one or more sureties approved by the Manager.

(3) Any bond or other security given in respect of a particular licence or a purchaser's licence shall, unless the Manager otherwise determines, be for a sum equal to twice the estimated value of the goods to which the licence relates at the time and place of export.

(4) Any bond or other security given in respect of a general licence shall be for such sum as the Manager considers adequate.

**10 Right of appeal to Minister**

From any decision of the Manager under these regulations there shall be a right of appeal to the Minister, whose decision shall be final.

**11 Exceptions**

(1) Nothing in these regulations shall apply with respect to –

- (a) Any goods shipped as stores in any ship or aircraft about to depart for any country outside Niue;
- (b) Any other goods in respect of which the Minister by direction in writing determines that these regulations shall not apply.

(2) Without limiting the general authority conferred on the Minister by paragraph (1) any such direction may relate to –

- (a) Any goods intended solely for use or consumption in any specified place or in any specified places;
- (b) Any goods of a specified kind or of specified kinds;
- (c) Any goods to be exported in a specified manner or at or within a specified time;
- (d) Any goods to be exported by a specified person or a specified class of persons.

(3) Any direction given by the Minister for the purposes of this regulation may at any time be varied or revoked in like manner.

**12 Offences**

(1) Every person commits an offence and is liable in accordance with the Customs Act 1966 to a penalty not exceeding 2 penalty units who –

- (a) In any application for a licence under these regulations, makes or causes or permits to be made, any statement that to his knowledge is false or misleading in any material particular; or
- (b) In relation to any such application, misleads or attempts to mislead the Manager; or
- (c) Fails to comply with any provision of these regulations.

(2) Nothing in this regulation shall limit the liability of any person under any provision of section 48 or Part 2 of the Customs Act 1966 in any case to which any such provision applies.

SCHEDULE

Form 2

*Export Licences Regulations 1966*

APPLICATION FOR GENERAL LICENCE TO EXPORT GOODS

To the Revenue Manager, Niue

Full name of applicant: .....

Address: .....

Local office of bank in Niue to which shipping documents are to be delivered: .....

Duration of licence: .....

The applicant hereby applies for a general licence to export goods from Niue in terms of the particulars set out above.

Date: .....

Signature: .....

I hereby license the exportation of goods in terms of the above application and in accordance with the Export Licences Regulations 1966.

Date: .....

Signature: .....

Revenue Manager

**EXPORT PROHIBITION REGULATIONS 1953**

SR1953/179 – 1 January 1954

- 1 These are the Export Prohibition Regulations 1953.
- 2 No person shall export any goods without the permission in writing of the Minister of Customs.
- 3 The Minister may grant permission for the export of any goods or goods of any class either generally or to any country or countries or to any person or persons, and any such permission may be subject to such conditions as he may impose.
- 4 (1) Any person desiring to export goods shall, at least ten days before the date of intended shipment, apply in writing to the Manager at the port at which the goods are proposed to be placed on board the exporting vessel for permission to export the goods. The applicant shall furnish the following particulars –
  - (a) Description, quantity, and value of goods;
  - (b) Port of intended shipment;
  - (c) Name of intended exporting vessel;
  - (d) Approximate intended date of shipment;
  - (e) Ultimate destination of goods;
  - (f) Name and address of consignee;
  - (g) Any other particulars that may be required by the Manager.(2) The Minister may dispense with all or any of the requirements of this regulation.
- 5 Except with the permission of the Manager, entry for export of any goods for the export of which permission is granted shall be made at the Customhouse at the port of loading before shipment of the goods on the exporting vessel.
- 6 —
- 7 The Minister may delegate to the Manager authority to entertain any application for permission to export goods and to grant or withhold any permission that the Minister is empowered by these regulations to grant or withhold, and any permission given by the Manager in the name of the Minister or in his own name, and the conditions thereof, shall for the purposes of these regulations be as effective as if given by the Minister in person.
- 8 The Minister may at any time before shipment, by notice in writing given to the person to whom the permission was granted, revoke any permission for the export of any goods granted by him or by the Manager and may direct the Manager at any such time as aforesaid and in like manner to revoke any such permission granted by the manager respectively.
- 9 (1) These regulations shall apply with respect to the export of all goods, notwithstanding that a licence or other authority for the export of any such goods may be in force under the Customs Acts or any other Act or under any regulations other than these regulations.  
(2) The granting of permission to export any goods under these regulations shall not absolve any person from the obligation to comply with the requirements of any Act or of any other regulations with respect to the export of the goods.

## IMPORT PROHIBITION (INSECTICIDES) ORDER 1964

SR 1964/188 – 30 November 1964

- 1 This is the Import Prohibition (Insecticides) Order 1964.
- 2 The importation of the goods specified in the Schedule is prohibited, except with the consent of the Minister of Customs and subject to such conditions as he thinks fit to impose.

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### SCHEDULE

Benzene hexachloride  
Dichlorodiphenyltrichlorethane (DDT)

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## IMPORT PROHIBITION (OFFENSIVE WEAPONS) ORDER 1972

SR 1972/223 – 24 October 1972

- 1 **Title**  
This is the Import Prohibition (Offensive Weapons) Order 1972.
- 2 **Importation of offensive weapons**  
The importation of the goods specified in the Schedule is hereby prohibited, except with the consent of the Minister of Customs and subject to such conditions as he thinks fit to impose.

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### SCHEDULE

Knuckle-dusters, knives incorporating knuckle-dusters, sword-sticks, and any weapon disguised to give the appearance of another article.

Any knife –

- (a) Which has a blade which opens automatically by hand pressure applied to a button, spring, or other device in or attached to the handle of the knife, sometimes known as a 'flick knife' or 'flick gun'; or
- (b) Which has a blade which is released from the handle or sheath thereof by the force of gravity or the application of centrifugal force and which, when released, is locked in place by means of a button, spring, lever, or other device, sometimes known as a 'gravity knife'.

## PORT AND SERVICE TAX REGULATIONS 1952

1 These are the Port and Service Tax Regulations 1952.

2 [Spent]

3 (1) Subject to the paragraph (2), there shall be levied and payable on all goods imported into Niue a port and service tax at the rate of 21/2 per cent *ad valorem*.

(2) There shall be exempted from the payment of the tax passengers' baggage and effects of the following kinds which are not intended for any other person or for sale, namely –

- (a) Wearing apparel and other personal effects which have been worn or are in use by persons arriving at Niue;
- (b) Implements, instructions, and tools of trade, occupation, or employment of any passenger which have been in use by that passenger for not less than twelve months prior to his embarkation;
- (c) Household or other effects which have been in use for not less than twelve months prior to embarkation by the persons or families bringing them to Niue;

Provided that if the household or other effects are not imported within 5 years from the date of the arrival in Niue of the persons or families by whom they have been used, they shall be exempted under this paragraph only with the approval of the Minister.

4 For the purposes of these Regulations the value of any goods imported into Niue shall be determined in accordance with the Customs Act 1966.

5 (1) The port and service tax imposed by these Regulations shall constitute a debt due to the Crown by the importer of the goods, and shall be payable before the entry of the goods is passed by the Revenue Manager.

(2) In this regulation the term "importer" has the same meaning as in the Customs Act 1966.

6 The port and service tax imposed by these Regulations shall be in addition to and not in substitution for any lighterage charge or any other charges payable in respect of the landing of any such goods on Niue.

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## PORT OF ENTRY ORDER 1995

SR 1960/129

[EDITORIAL NOTE: See *Niue Legislation as at 1 August 1990* vol 4 p209.]

## CUSTOMS TARIFF

[EDITORIAL NOTE: The Tariff Schedule is not reproduced here. Copies of the current Schedule may be obtained from the Revenue Manager.

The Tariff Schedule used is the Pacific Harmonised Tariff Schedule 1995. There are no duties payable on goods exported from Niue.]

### CUSTOMS TARIFF (GENERAL AMENDMENTS) REGULATIONS 1997

1996/2 – 1 January 1997

<p>1 Title</p> <p>2 Revocations</p> <p>3 Customs Tariff Schedule</p> <p>4 Nomenclature and Classification of Goods</p>	<p>5 Duty Rates Payable on Goods Imported into Niue</p> <p>6 Duty Rates Payable on Goods exported from Niue</p>
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**1 Title**  
These are the Niue Customs Tariffs (General Amendments) Regulations 1997.

**2 Revocations**  
All Regulations passed in accordance with section 7, Niue Customs Act 1982, No 77 and having effect prior to 30 September 1996 are hereby revoked.

**3 Customs Tariff Schedule**  
The Pacific Harmonised Customs Tariff Schedule 1995 shall be incorporated into and form a part of these Regulations replacing The Pacific Harmonised Customs Tariff Schedule 1989.

**4 Nomenclature and Classification of Goods**  
The system of nomenclature and classification of goods shall be that system set out in Schedule 1 of The Pacific Harmonised Customs Tariff Schedule 1995.

**5 Duty Rates Payable on Goods Imported into Niue**  
The duty rates payable on any goods imported into Niue are those rates set out in Schedule 1 and Schedule 2 of The Pacific Harmonised Customs Tariff Schedule 1995 as revised by Cabinet prior to the date of these regulations.

**6 Duty Rates Payable on Goods Exported from Niue**  
There shall be no duties payable on any goods exported from Niue.



## CUSTOMS TARIFF (REDUCTION AND ELIMINATION OF TARIFFS) REGULATIONS 2006

2006/1 – 1 January 2005

### 1 Title

These are the Customs Tariff (Reduction and Elimination of Tariffs) Regulations 2006, and shall be read together with and deemed part of the Niue Customs Tariff (General Amendments) Regulations 1997.

2 [Spent]

### 3 Interpretation

In these Regulations –

“Least Developed Country” means a Party to the PICTA that is for the time being designated as a Least Developed Country by the United Nations;

“Small Island States” means the Cook Islands, Kiribati, Nauru, Niue, Republic of Marshall Islands, Tuvalu, and any other State, Territory or Self-Governing entity that becomes a Party to the PICTA;

“PICTA” means the Pacific Islands Countries Trade Agreement;

“Tariff Schedule” means the Pacific Harmonized Customs Tariff Schedule for Niue referred to in the Niue Customs Tariff (General Amendments) Regulations 1997.

### 4 Objectives

The objectives of these Regulations is to implement the PICTA by eliminating trade barriers with –

(i) tariff reduction with retrospective effect as of 1 January 2005; and

(ii) elimination of tariffs for excepted imports from Small Island States and Least Developed Countries.

### 5 Third Schedule inserted

The Tariff Schedule is hereby amended by inserting after the Second Schedule the following Schedule –

## SCHEDULE 3

**Table 1 Elimination and reduction of tariff**

Ad valorem tariffs on originating goods which are imported shall be reduced and eliminated according to the following timetable –

Base tariff on goods on the entry into force of PICTA	Maximum tariff on goods from:				
	1.12.2005	1.1.2007	1.1.2009	1.1.2011	1.1.2013
More than 25%	25%	17.5%	10%	5%	0%
More than 20% but not more than 25%	20%	15%	10%	5%	0%
More than 15% but not more than 20%	15%	10%	5%	0%	
More than 10% but not more than 15%	10%	5%	0%		
Not more than 10%	5%	0%			

**Table 2 Elimination on tariffs for excepted imports**

Ad valorem tariffs on goods listed by Small Island Countries and Least Developed Countries as excepted imports shall be eliminated according to the following timetable:

Maximum ad valorem tariffs on goods from:

Entry into force of PICTA	1.1.2007	1.1.2008	1.1.2009	1.1.2010	1.1.2011	1.1.2012	1.1.2013	1.1.2014	1.1.2015	1.1.2016
Base Tariff	50%	40%	35%	30%	25%	20%	15%	10%	5%	0%



## DEPARTURE TAX

### DEPARTURE TRAVEL TAX REGULATIONS 2002

2002/1 – 15 October 2002

#### 1 Title

These are the Departure Travel Tax Regulations 2002.

#### 2 Interpretation

In these Regulations –

“Act” means the Departure Travel Tax Act 1996;

“child” means a person of 2 years of age and up to the age of 12 years;

“diplomat” means any person who has accredited diplomatic status recognised by the Niue Government;

“infant” means a person under the age of 2 years;

“transit passenger” means a passenger who –

(i) Does not leave the airport or ship; or

(ii) Leaves the airport or vessel only because of an interruption to the journey caused by the unserviceability of the aircraft or vessel, or caused by any delay beyond the control of the passenger or the operator concerned; or

(iii) Stays on Niue solely for the purpose of securing onward travel, to a country other than the country from which the person arrived, and departing Niue within 24 hours of arrival;

“vessel” means any boat, ship or yacht.

#### 3 Exemptions

The following are exempt from paying departure tax –

(a) Any member of the crew of a scheduled, military, diplomatic or licensed commercial aircraft or vessel;

(b) An infant and child;

(c) Any diplomatic staff accredited by the Government of Niue;

(d) A transit passenger.

#### 4 Departure tax charges

(1) All persons departing by aircraft shall pay departure tax at a rate of \$25.00 per person unless exempted under regulation 3.

(2) All persons departing by vessel shall pay departure tax at a rate of \$25.00 per person unless exempted under regulation 3.



## **DIPLOMATIC PRIVILEGES AND IMMUNITIES**

[EDITORIAL NOTE: The various Orders and Regulations made under this Act are not reproduced. The full list of that legislation is in the Table of Subsidiary Legislation. The Orders and Regulations can be found in Niue Legislation as at 1 August 1990 vol 4 pp314-355.]





## DOGS

### DOGS (FEES) REGULATIONS 2005

2005/2 – 24 June 2003

- 1 Title**  
These are the Dogs (Fees) Regulations 2005.
- 2 Fees**  
The fees prescribed for the purpose of the Dogs Act 1966 are set out in the Schedule.

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#### SCHEDULE

<b>Registration</b>	<b>Fee</b>
All dogs	\$20.00
If spayed (with certificate)	\$10.00
Annual Licence	\$20.00
Dog collar	\$10.00



## DOMESTIC FISHING

### DOMESTIC FISHING REGULATIONS 1996

1996/1 – 5 March 1996

1 Title	7 Protected fish species
2 Interpretation	8 Vessel safety equipment
3 Prohibited fish exports	9 Annual licence fee for vessels
4 Fish size limit	10 Vessels fishing inside territorial sea
5 Fish quota limits	11 Vessels fishing outside territorial sea
6 Destructive organisms	12 Measurements of crustaceans size limits

#### 1 Title

These are the Domestic Fishing Regulations 1996.

#### 2 Interpretation

(1) In these Regulations –

“Act” means the Domestic Fishing Act 1995;

“prohibited fish exports” and “protected fish species” when referring to a species includes a live species, or a dead species, cooked in part or whole, its bones, meat, teeth or skin;

“vessel” means any boat, or sea craft, or ship whether propelled by oars or motorised, but does not include –

- (a) A canoe;
- (b) A yacht not registered in Niue;
- (c) A yacht’s tender not used for hire or reward; or
- (d) A commercial cargo vessel having a gross tonnage, in excess of five tonne;
- (e) A barge.

(2) Subject to paragraph (1), the expressions defined in the Act have the meaning so defined.

#### 3 Prohibited fish exports

(1) No person shall export or facilitate the export from Niue of any of the following species of fish, at any time without written approval of Cabinet –

- (a) Turtle (all species);
- (b) Sea Snake (all species);
- (c) Whale (all species);

- (d) Porpoise (all species);
- (e) Dolphin (all species);
- (f) Live tropical fish (all species);
- (g) Egg carrying or soft shell crustaceans (all species);
- (h) Sea cucumber (all species);
- (i) Live sea shells (all species);
- (j) Crayfish (all species); and
- (k) Rays (all species).

(2) No person shall export or facilitate the export from Niue of the Uga (*Birgus latro*) in any form during the period from 1 October to 1 March each year, without the written approval of Cabinet.

#### 4 Fish size limit

(1) No person shall interfere with, take or kill any fish species that is deemed under size.

(2) The following fish species are deemed under size, where to measure is shown under section 12 –

- (a) Uga with a thoracic length less than 36mm;
- (b) Crayfish with a tail length of less than 130mm;
- (c) Clams under 180mm in length;
- (d) Tapatapa under 80mm in length.

#### 5 Fish quota limits

(1) No person in a vessel may take or be in possession of more than –

- |                       |                      |
|-----------------------|----------------------|
| (a) Ten (10) Clams;   | ] per day per person |
| (b) Ten (10) Crayfish | ] per day per person |

(2) Unless the person has obtained a Quota Licence from the Director approved by Cabinet.

#### 6 Destructive organisms

The following fish species are deemed to be destructive organisms which cause harm to Niue's reefs and can be removed from the reef and destroyed –

- (a) Crown of Thorns star fish (*Acanthaster lanci*);
- (b) Japanese star fish; and
- (c) Long Spined coral boring sea Urchin (*Echinoidea Diadema* sp.)

#### 7 Protected fish species

(1) No person shall interfere with, take, kill or bring ashore any of the following fish species at any time without written approval of Cabinet –

- (a) Niuean Banded Sea snake;
- (b) Large spotted green/brown Moray eel;
- (c) Whales (all species);
- (d) Porpoise (all species);
- (e) Dolphin (all species);
- (f) Turtle (all species);
- (g) Live Coral (all species);
- (h) Egg carrying Crustaceans (all species); and
- (i) Soft shell stage Crustaceans (all species);
- (j) Giant wrasse;
- (k) Rays (all species).

(2) If caught they must be released unharmed.

## 8 Vessel safety equipment

(1) No person shall put to sea in a vessel unless it has the following equipment on board and in good working condition –

- (a) A pair of paddles, or oars and rowlocks, if used in a rowing vessel;
- (b) A suitable bailer;
- (c) A good fitting drain plug;
- (d) A working torch; and a 12 hour cyalume safety-light, or a set of in date flares;
- (e) A suitable light reflecting object;
- (f) One standard life preservation jacket or an accepted flotation jacket for every person board the vessel;
- (g) In the case of a vessel powered by a combustion engine, a minimum “tool kit” containing the following –
  - (i) plug spanner;
  - (ii) suitable screwdriver – Phillip or blade type;
  - (iii) pliers and adjustable spanner;
  - (iv) spare starter rope; and
  - (v) a clean set of spark plugs; and
- (h) An anchor with a suitable rope or nylon line.

(2) No person shall put to sea in any vessel, less than 4.8 metres (16 foot) in length unless that vessel complies with all the requirements specified in regulation 8(1).

(3) No person shall put to sea in any vessel 4.8 metres (16 foot) and above in length, unless that vessel complies with –

- (a) All the requirements specified in regulation 8(1); and has
- (b) A licensed two way communication radio, in good working order;
- (c) A spare outboard motor in good working order and be able to be fitted so that it can operate effectively.

(4) No person shall put to sea in any vessel, carrying visitors, tourists or other persons for hire or reward unless that vessel complies with –

- (a) All the requirements specified in regulation 8(1); and has
- (b) A licensed two way communication radio, in good working order;
- (c) A spare outboard motor in good working order and be able to be fitted so that it can operate effectively.

## 9 Annual licence fee for vessels

(1) No person shall put to sea in any vessel unless the vessel has a current licence and annual fees in respect of that licence have been paid for that licence year.

(2) The annual fee shall be as follows –

- (a) For a vessel, with a tare weight under 750 kilograms \$5.00;
- (b) For any vessel that carries persons for hire or reward \$50.00;
- (c) For a vessel with a tare weight over 750 kilograms \$100.00.

## 10 Vessels fishing inside territorial sea

(1) All fishing vessels operating within Niue territorial sea must comply with the requirements of the Act and these Regulations.

(2) (a) Cabinet may include additional vessel requirements such as, safety requirements, verification of registration, certification of the vessel, and qualification of the skipper.

- (b) The proven ability of the communications officer to communicate in English as to report their position and fishing catch data and use effectively the communications radio.
- (3) Cabinet may impose additional fishing quotas and size limits as it sees fit.

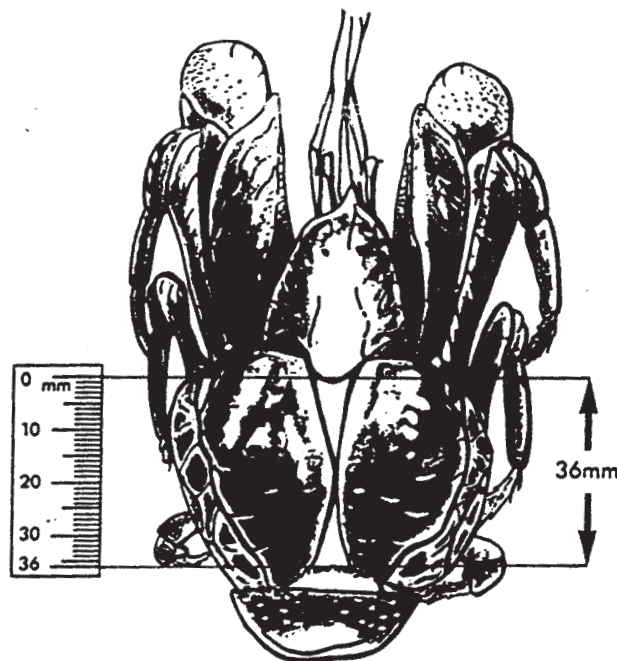
#### 11 Vessels fishing outside territorial sea

(1) All fishing vessels operating outside Niue's territorial sea must comply with the requirements of the Territorial Sea and Exclusive Economic Zone Act 1996 and its Regulations.

- (2) (a) Cabinet may include additional vessel requirements such as, safety requirements, verification of registration, certification of the vessel, and qualifications of the skipper.
- (b) The proven ability of the communications officer to communicate in English as to report their position and fishing catch data and use effectively the communications radio.

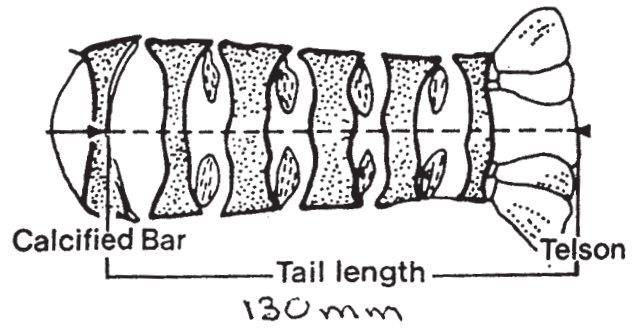
#### 12 Measurement of crustaceans size limits

13 Years Old  
RECOMMENDED SMALLEST HUNTING SIZE



This is the smallest size uga that should be hunted. Crabs smaller than this represent the breeding stock of the uga population and should not be taken.

Note: Lobster tails are measured from the posterior side of the calcified bar on the underside of the first segment to the tip of the telson of the tail fan measured in a middle straight line. The points of measurement are as illustrated below –



REFERENCE POINTS FOR MEASURING ROCK LOBSTER TAILS





## ENTRY, RESIDENCE AND DEPARTURE

### ENTRY, RESIDENCE AND DEPARTURE REGULATIONS 1997

1997/2 – 14 January 1997

1 Title	5 Fees payable on issue of permit
2 Interpretation	6 Cabinet review
3 Types of permits	7 Permanent residence status
4 Fees payable on application	8 Certificate of identity

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#### 1 Title

These are the Entry, Residence and Departure Regulations 1997.

#### 2 Interpretation

In these Regulations –

“Act” means the Entry, Residence and Departure Act 1985;

“business agent” means a person who does not engage in any work in Niue other than securing orders to import goods into Niue for the purpose of supply to businesses in Niue;

“entry and residence permit” means a permit to reside in Niue for a period of up to 36 months but, does not include the right to work;

“exemption permit” means

(a) a permit issued to a person employed by or carrying out consultancy work for the Government of Niue either with or without remuneration; and

(b) a permit issued to the spouse and any child or children of any person qualifying under paragraph (a) provided however that the spouse and child or children will reside in Niue for a continuous period of not less than 3 months;

“extension permit” means a permit issued to the holder of either an Entry and Residence Permit, or a Study Permit, or a Visitor’s Permit, or a Work Permit, extending the term in the case of –

(a) An Entry and Residence Permit for a further period not exceeding 36 months;

(b) A Study Permit for a further period not exceeding 36 months;

(c) A Visitor’s Permit for a further period not exceeding 60 days;

(d) A Work Permit for a further period not exceeding 36 months;

“family” means the spouse of the applicant and any children, by birth or legal adoption, and under the age of 18 years, of either the applicant or his spouse;

“holder” in relation to a permit or certificate of identity issued or granted under the Act or any regulations made thereunder, means the person in respect of whom the permit or certificate of identity is current; and in the case of a permit or a certificate of identity issued or granted in respect of more than 1 person, includes each of those persons;

“Immigration Officer” means a person employed in the Immigration Office as an Immigration Officer;

“permit” means a permit granted under the Act and includes a certificate of identity and all types of permits created by any regulations made under the Act;

“Study Permit” means a permit to undertake study in Niue either at Niue Primary School, or Niue High School, or any type of training or study offered at the University of the South Pacific Extension Centre or any type of apprentice scheme;

“Work Permit” means a permit to undertake a specific type of employment in Niue for a period of up to 36 months.

### **3 Types of permits**

(1) The following types of permits as defined in regulation may be granted under section 8, of the Act –

- (a) An Entry and Residence Permit;
- (b) An Exemption Permit;
- (c) An Extension Permit;
- (d) A Study Permit;
- (e) A Visitor’s Permit;
- (f) A Work Permit.

(2) Should the holder of a Work Permit wish to change the type of employment specified in the work permit it shall be necessary for such holder to obtain the prior approval of an Immigration Officer.

(3) On the issue of a Work Permit the Immigration Officer issuing the work permit shall advise the holder’s name and address to the Inland Revenue Department.

### **4 Fees payable on application**

On every application for a permit a fee shall be payable in accordance with the Schedule. Such fee shall accompany the application for a permit.

### **5 Fees payable on issue of permit**

(1) (a) Subject to paragraphs (2) and (3) on the issue of every permit, a fee shall be payable under the Schedule.

(b) Such fee shall accompany the application for the permit.

(2) (a) Where an application for a permit is for a period of time less than that specified for any particular type of permit, the permit fee payable shall be proportionate to the lesser period of time.

(b) There shall be no refund of the fee payable should the holder of a permit elect to remain in Niue for a period of time less than that specified in the permit.

(3) Any person married to or marrying a resident Niuean shall be required to pay a permit application fee and hold an appropriate permit, provided however, that person shall be exempt from paying a permit fee.

**6 Cabinet review**

(1) Where the issue of a permit is declined for any reason an application for review may be made to Cabinet on payment of the fee set out in the Schedule, provided however, no such application fee shall be payable by a person married to a Niuean.

(2) Cabinet, after hearing an application for review, may in its discretion either uphold the decision of the Immigration Officer or direct that a permit issue.

**7 Permanent residence status**

(1) When an application for permanent residence, as referred to in section 5 of the Act, is granted the grant of permanent residence shall incur a fee as prescribed in the Schedule.

(2) The fee for granting permanent residence status to a family shall be the same as the fee for granting permanent resident status to a single person.

**8 Certificate of identity**

(1) Persons who are not Niuean but are residents of Niue and who do not possess a valid travel document may be issued with a Niue certificate of identity.

(2) Such certificate of identity may only be issued for the purposes of facilitating the holders entry into any country accepting Niue certificates of identity.

(3) A fee as prescribed in the Schedule shall be payable on the issue of the certificate of identity.

(4) The certificate of identity shall be in a form approved by the Immigration Officer.

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SCHEDULE

Exemption permit	No charge
Visitors permit up to 30 days	No charge
Application for permanent residence status	\$20.00
Granting of permanent residence status	\$500.00
Entry and residence permit for up to 36 months or part	\$100.00
Work permit up to 36 months or part thereof	\$300.00
Study permit up to 36 months or part thereof	\$100.00
Applications for an entry residence, work, or study permit	\$10.00 each
Cabinet review	
Extension permit	
Entry and residence up to 36 months or part thereof	\$50.00
Visitor (for any period up to 30 days)	\$10.00
Work up to 36 months or part thereof	\$250.00
Study Permit up to 36 months or part thereof	\$80.00



# ENVIRONMENT

## BIOSAFETY (GENETICALLY MODIFIED ORGANISMS) REGULATIONS 2006

2006/4 – 4 July 2006

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### PART 1 PRELIMINARY

- 1 Short title**  
These are the Biosafety (Genetically Modified Organisms) Regulations 2006.
- 2 Interpretation**  
(1) In these Regulations –  
“Act” means the Environment Act 2003;  
“Advanced Informed Agreement” (AIA) means the procedure prescribed in Article 7 of the Cartagena Protocol relating to the notification requirements for transboundary movements of genetically modified organisms;  
“Authority” means the Council;  
“biological diversity” has the same meaning as in the Convention on Biological Diversity;

- “Biosafety Clearing-House” means the Clearing-House established under Article 20 of the Cartagena Protocol;
- “Cartagena Protocol” means the Cartagena Protocol on Biosafety to the Convention on Biological Diversity adopted at Montreal in January 2000;
- “Competent National Authority” has the same meaning as in the Cartagena Protocol;
- “contained use” means any activity, undertaken within a facility, installation or other physical structure, which involves genetically modified organisms that are controlled by approved measures to limit their contact with, and their impact on, the external environment;
- “Convention on Biological Diversity” means the 1992 Convention on Biological Diversity adopted at Nairobi in May 1992;
- “Council” means the Environment Council established under section 15 of the Act;
- “Department” means the Environment Department established by section 5 of the Act;
- “develop” means genetic modification of a living organism; field testing or fermentation of a genetically modified organism;
- “Director” means the Director for Environment;
- “environment officer” means an environment officer appointed under the Act;
- “export” means intentional transboundary movement from Niue to a place outside Niue;
- “exporter” means a person who exports or arranges the export of a genetically modified organism.
- “import” means intentional transboundary movement into Niue from a place outside Niue;
- “importer” means a person who imports or arranges the import of a genetically modified organism;
- “genetically modified organism” has the same meaning as “living modified organism” in the Cartagena Protocol; and includes genetically modified human cells and tissues maintained outside the human body, and animal cells and tissues maintained in laboratories for research and investigation;
- “living organism” means any biological entity capable of transferring or replicating genetic material, including sterile organisms, viruses and viroids;
- “micro-organism” means any microbiological entity, cellular or non cellular, capable of replication or of transferring genetic materials, including viruses, viroids, human, animal and plant cell in culture;
- “Minister” means the Minister responsible for environment matters;
- “modern biotechnology” means the application of –
- (a) In vitro nucleic acid techniques, including recombinant deoxyribonucleic acid (DNA) and direct injection of nucleic acid into cells or organelles;
  - (b) Fusion of cells beyond taxonomic family, that overcome natural physiological reproductive or recombination barriers and that are not techniques used in traditional breeding and selection;
- “notifier” means any person giving notification of an intended transboundary movement of a genetically modified organism;



“Office of External Affairs” means the office responsible for external administrative matters;

“Party” means a Party to the Cartagena Protocol;

“Technical Advisory Group” means any group of technical and/or scientific experts which is appointed by the Council to assess risks associated with the application of GMO’s as required in the Regulations and the NBF;

“transboundary movement” means the movement of genetic modified organisms from Niue to another State, or from another State to Niue whether or not that State is a member of the Cartagena Protocol.

(2) Words used in these Regulations, shall have the same meaning as is given to them in the Convention on Biological Diversity and the Cartagena Protocol, unless a contrary intention appears.

### **3 Objectives**

The objectives of these Regulations are to –

- (a) Protect Niue’s people, environment (including biodiversity) and culture from the adverse effects of genetically modified organisms;
- (b) Facilitate Niue’s economic development by providing for beneficial uses of genetically modified organisms and modern biotechnology after appropriate scientific assessment and analysis; and
- (c) Provide for public awareness and participation in matters relating to genetically modified organisms and modern biotechnology.

### **4 The precautionary approach**

(1) All persons exercising functions, powers and duties under these Regulations shall recognise and provide for the precautionary approach.

(2) For the purposes of paragraph (1), the precautionary approach means that in the event of threat of harm to the environment or human health, a lack of scientific certainty regarding the extent of adverse effects shall not be used to postpone a decision to minimise the potential adverse effects or threat of harm.

## PART 2

### IMPORTING

#### *Genetically Modified Organisms*

### **5 Approval required for import of genetically modified organisms**

No person shall import any genetically modified organism into Niue unless prior written approval has been given by the Council under these Regulations.

### **6 Procedure for application to import genetically modified organisms**

(1) Every person intending to import a genetically modified organism shall, before importation, apply to the Council for approval.

(2) The application shall include a risk assessment which shall –

- (a) Be undertaken in a scientifically sound manner taking into account internationally recognised risk assessment methodologies and techniques;
- (b) Be based upon the information supplied in the application, and other available scientific evidence to identify and evaluate possible adverse effects on the environment and risks to human health;
- (c) Identify all risks and benefits relevant to the genetically modified organism.

(3) The application shall be in the form specified in the Schedule and shall be accompanied by the required fee.

(4) An applicant may indicate that certain information is of a confidential nature, if it is information other than –

- (a) The name and address of the notifier;
- (b) A general description of the genetically modified organism;
- (c) A summary of the risk assessment; and
- (d) Proposed methods and plans for emergency response.

(5) If the Director is satisfied that the nature of the information justifies it being kept confidential, the information may only be provided to members of the Council and Technical Advisory Group, undertaking the relevant risk assessment and environment officers.

(6) No person to whom the information has been provided under paragraph (4) may disclose it to any other person, and it may not be used for any commercial purpose except with the written consent of the notifier.

(7) If the Director is not satisfied that the nature of the information justifies it being kept confidential –

- (a) The notifier shall be advised of the reasons for the decision;
- (b) The Director shall consult with the notifier if requested; and
- (c) The decision may be reviewed under regulation 9.

(8) Upon receipt of a decision under paragraph (7)(a) the applicant may withdraw the application and have returned all information, documents and reports provided in support of the application.

## **7 Processing the application**

(1) (a) The Director shall acknowledge receipt of the application within 90 days.

(b) Failure to acknowledge receipt does not constitute consent to the importation of the genetically modified organism.

(2) The Director shall notify the application by radio and newspaper, and invite submissions from the community.

(3) The Council shall review and assess the application and any submissions.

(4) The Council may at any time -

- (a) Request additional information from the notifier;
- (b) Require verification by statutory declaration of any information provided;
- (c) Seek additional information from any source;
- (d) Advise the notifier that the time required for the determination of the matter is to be extended by a stated period;
- (e) Defer its decision until costs associated with the application have been paid.

## **8 Deciding the application**

(1) The Council may approve the development, field testing, contained use, fermentation or processing of a genetically modified organism if –

- (a) There are no adverse effects of the organism; or
- (b) There is a demonstrable benefit to Niue; or
- (c) The requirements of other applicable laws are sufficient to manage the risks of the organism; or
- (d) The activity is necessary as an emergency response to threats to human health or the environment.

(2) The Council may impose such conditions on the approval as it thinks fit.

(3) Any approval given by the Council shall be endorsed by Cabinet before the activity may be commenced.

(4) The Council shall provide its decision, with reasons, no later than 270 days after considering the application.

(5) An approval given under this regulation may be withdrawn or suspended by the Council on the grounds that there is a significant risk to the environment (including biodiversity), or human health.

## **9 Review of decisions**

(1) Any person may request a review of any decision made under these Regulations, on the grounds that –

- (a) A change in circumstances has occurred relating to the risk assessment on which the decision was based;
- (b) Significant additional relevant scientific or technical information has become available; or
- (c) The person is adversely affected by the decision.

(2) The Council shall decide whether to review the decision within 30 days of receiving the request, and shall –

- (a) Give reasons in writing for its decision;
- (b) Indicate whether a further risk assessment is to be undertaken.

(3) The Council may decide to review any decision made under these Regulations on its own motion, and in that event the applicant shall be informed of the review within 30 days.

(4) (a) The Council may decide to advertise on radio or TV Niue indicating the request for reviewing of decision.

(b) The Council shall, in exercising its functions under the Act, observe reasonable standards of procedural fairness, act in a timely fashion and observe the rules of natural justice, and without prejudice to the generality of the foregoing, the Council shall –

- (i) give to persons who are or who are likely to be affected by such decision an opportunity to make submissions to and to be heard by the Council, or otherwise consult with such persons in good faith;
- (ii) have regard to all the evidence adduced and to the matters contained in any such submissions or otherwise received in the course of such consultations;
- (iii) give a written statement of its reasons for making such a decision.

(5) No change of decision made under this regulation shall avoid the requirement to give notice of, or provide risk assessments for, subsequent imports of the genetically modified organism.

PART 3  
OTHER ACTIVITIES RELATING TO  
GENETICALLY MODIFIED ORGANISMS

**10 Export of genetically modified organisms**

(1) No person shall export a genetically modified organism to any Party unless –

- (a) The export has been notified to and approved by that Party's Competent National Authority;
  - (b) The export complies with any conditions imposed by that Party's Competent National Authority.
  - (c) The Department has been notified of the export.
- (2) A notification given under paragraph (1) shall contain –
- (a) The information specified in Annex 1 to the Cartagena Protocol;
  - (b) Any further information required by the Department or the relevant overseas Competent National Authority.

(3) No genetically modified organism may be exported to a non-Party without the approval of the Council, which shall take into account the requirements of these Regulations, and the objectives of the Cartagena Protocol and which has been endorsed by Cabinet.

(4) A genetically modified organism shall not be exported to a non-Party until the approval has been endorsed by Cabinet.

**11 Transit of genetically modified organisms**

No genetically modified organism may be brought into Niue in transit to any other country unless –

- (a) Regulation 6 has been complied with;
- (b) Any condition imposed under regulation 6(4)(b) is met; and
- (c) The requirements of any law relating to customs and excise, quarantine and any other relevant matter are complied with.

**12 Use for food, feed and for processing**

(1) No person may import any genetically modified organism for use as food, feed or for processing unless –

- (a) Regulation 6 has been complied with, if it is being imported into Niue for the first time; and
- (b) All relevant laws regulating its use are complied with.

(2) Where approval is given for the importation of a genetically modified organism for use as food, feed or for processing under any other Act, and the organism will be exported from Niue, the Department shall arrange with the Office of External Affairs;

- (a) To notify the Biosafety Clearing-House in accordance with Annex II of the Cartagena Protocol, within 15 days of an approval for export being given; and
- (b) To give other notifications and information in accordance with Article 11(1) and (3) of the Cartagena Protocol.

### **13 Development, contained use and testing of genetically modified organisms**

(1) No person shall engage in any activity relating to the development, field testing, contained use, fermentation or processing of a genetically modified organism without prior written approval from the Council.

(2) Any contained use, development, field testing, fermentation or processing of a genetically modified organism within Niue shall be in accordance with any condition, requirement or restriction -

- (a) Imposed by the Council; and
- (b) Required under any other relevant law.

(3) Applications for approvals under this regulation shall -

- (a) Be in an approved form;
- (b) Contain such information as is determined by the Director;
- (c) Be supported by such further information and verification as may be required by the Council; and
- (d) Be accompanied by the fee set in regulation 19(5)(e).

## **PART 4**

### **EXEMPTIONS, ENFORCEMENT AND OFFENCES**

#### **14 Unintentional releases and transboundary movements**

(1) Any person who causes or becomes aware of the unintentional release or transboundary movement of a genetically modified organism shall immediately notify the Department and provide such information as the Director may require.

(2) An unintentional release or transboundary movement for the purposes of this regulation, is one which -

- (a) Has not been approved under these Regulations; or
- (b) Arises from the breach of a condition of any approval given under these Regulations.

(3) Upon notification under paragraph (1), the Department shall -

- (a) Give notice of the unintentional release or transboundary movement to -
  - (i) the members of the Council;
  - (ii) the Biosafety Clearing-House;
  - (iii) any affected or potentially affected person; and
  - (iv) such international organisations which the Director sees fit; and
- (b) Consult with any affected or potentially affected country to enable them to determine appropriate responses, including the taking of emergency measures.

(4) A notification given under paragraph (3) shall comply with Article 17(3) of the Cartagena Protocol.

#### **15 Illegal releases and transboundary movements**

(1) No person may permit, arrange, assist with, counsel, procure, aid or abet a release or escape, or transboundary movement of a genetically modified organism unless in accordance with these Regulations.

(2) In addition to any other penalty imposed for a breach of this regulation, the person responsible for the breach may be ordered to pay the costs associated with the disposal of the genetically modified organism, including all costs associated with its repatriation from or destruction in any country to which it has been permitted to move.

## 16 Offences

(1) A person commits an offence shall be liable upon conviction to a fine not exceeding 1,000 penalty units or to imprisonment for a term not exceeding 10 years, or to both who –

- (a) Imports a genetically modified organism into Niue in respect of which no notification has been given as required by regulation 7;
- (b) Does not obtain the approval required under regulation 6;
- (c) Fails to fully disclose all information known to be relevant to genetically modified organism in an application relating to it;
- (d) Imports a genetically modified organism into Niue without having an approval required under regulation 8 or 11
- (e) Fails to comply with any condition or requirement imposed under regulation 8;
- (f) Fabricates any risk assessment, or misrepresents any matter associated with a risk assessment undertaken in accordance with these regulations;
- (g) Fabricates or misrepresents any scientific or technical information relied upon for the purposes of requesting a review of any decision under regulation 9;
- (h) Exports a genetically modified organism in respect of which no notification has been given as required by regulation 10;
- (i) Exports a genetically modified organism without having an approval required under regulation 10;
- (j) Provides any false or misleading information in relation to a notification of export given in accordance with regulation 10;
- (k) Fails to obtain an approval for an activity related to the development, contained use, field testing, fermentation or processing of a genetically modified organism in accordance with regulation 13;
- (l) Fails to comply with any condition, requirement or restriction applying to the development, contained use, field testing, fermentation or processing of a genetically modified organism under regulation 13;
- (m) Undertakes any activity relating to a genetically modified organism when the approval required under these Regulations is suspended or has been withdrawn;
- (n) Breaches regulation 14 in relation to an unintentional release or transboundary movement of a genetically modified organism;
- (o) Breaches regulation 15 in relation to an illegal release or transboundary movement of a genetically modified organism; or
- (p) Fails to comply with any other obligation or requirement imposed under these Regulations.

(2) Any person who provides false information in respect of an application or notification commits an offence and shall be liable upon conviction to a fine not exceeding 50 penalty units.

(3) Any person who divulges or deals with confidential information contrary to regulation 6 commits an offence and shall be liable upon conviction to a fine not exceeding 50 penalty units.

(4) In addition to any penalty imposed under this Regulation, an offender may be ordered to pay to or reimburse the Government the costs of any remedial action taken or needed to rectify the consequences of any breach.



## **17 Dealing with genetically modified organisms contravening these Regulations**

(1) For the purposes of enforcing these Regulations, all environment officers may exercise the powers relating to investigating, monitoring, prosecuting and preventing the continuation of any breach that are vested in them in any law.

(2) In relation to any genetically modified organism which has been imported into Niue, or developed, tested, used, released, fermented or processed in contravention of these Regulations, or which is or remains in Niue in breach of these Regulations or any condition applying to the organism under these Regulations, an environment officer may –

- (a) Seize the organism;
- (b) Destroy the organism as determined by the Council or the Director;
- or
- (c) Deliver up the organism to an officer of another Department to be dealt with in accordance with the law.

(3) The cost of destroying any seized genetically modified organism, and of rectifying any adverse effects from a genetically modified organism as a result of breach of these Regulations may be recovered as civil debt from any person making use of the organism in contravention of these Regulations.

(4) Nothing in these Regulations shall affect the powers to search, seize and deal with items under laws relating to plant and animal quarantine, customs and excise and any other law that has application to the development, use, handling, storage or movement of genetically modified organisms.

## **18 Exemptions**

(1) The Council may exempt the importation of a genetically modified organism from the need for approval if the genetically modified organism is –

- (a) To be in transit through Niue;
- (b) To be the subject of contained use within Niue;
- (c) For direct use as food, feed or for processing;
- (d) Agreed by Parties to the Cartagena Protocol to be unlikely to have adverse effects on biological diversity or pose a risk to human health or the environment;
- (e) Of a type that the Council, with the endorsement of Cabinet, has determined falls under the scope of any notification given under Article 13 of the Cartagena Protocol, and if all requirements of other laws are met in relation to its import into Niue; or
- (f) A pharmaceutical for human consumption or emergency animal treatment that is addressed by other relevant laws or agreements and subject to the control of other international organisations.

(2) The Director of Health may apply to the Council for an exemption from the requirement to obtain an approval of any pharmaceutical containing a genetically modified organism on the grounds of a medical emergency.

(3) When granting an exemption under this regulation, the Council may impose any conditions or requirements relating to the use, storage, handling or movement of the genetically modified organism to minimise any impact on the environment, including biological diversity or human health.

(4) (a) The Council may require the first import of an organism under regulation 6 (2) to be subject to a risk assessment in accordance with Annex III of the Cartagena Protocol and decision by the Council.



- (b) The Council's decision shall be given in writing not later than 270 days after notification is received.
  - (c) Failure to make or communicate a decision within 270 days is not consent to the importation of the genetically modified organism.
- (5) Exemptions under this regulation shall not take effect until endorsed by Cabinet.

## PART 5

### ADMINISTRATIVE FRAMEWORK

#### **19 The role of the Council**

(1) The Council shall perform the functions of the Competent National Authority under the Cartagena Protocol.

- (2) (a) The Council may appoint a Technical Advisory Group to advise it in relation to genetically modified organisms and the applications of modern biotechnology.
- (b) The functions of the Technical Advisory Group may include –
  - (i) considering and reporting on any application made under these Regulations, including applications to review decisions;
  - (ii) considering and reporting on any other matter relating to the use of genetically modified organisms in Niue;
  - (iii) investigating any matter relating to the implementation of the Cartagena Protocol in Niue; and
  - (iv) recommending policies in relation to genetically modified organisms and the applications of modern biotechnology in Niue.
- (3) The Council shall –
  - (a) Oversee implementation of the requirements of the Cartagena Protocol, including the Advanced Informed Agreement Procedure (AIA);
  - (b) Establish appropriate and cost effective means for undertaking risk assessments, including determining–
    - (i) the appropriate bodies within Niue or elsewhere to undertake the risk assessments;
    - (ii) the scope of risk assessments and the methodologies to be applied; and
    - (iii) the cost of risk assessments, and the persons liable to pay these costs.
  - (c) Make decisions under these Regulations, including –
    - (i) exempting certain genetically modified organisms from the requirements of Part I (Article 13 of the Cartagena Protocol;) and
    - (ii) reviewing decisions (Article 12 of the Cartagena Protocol;)
  - (d) approve any forms required to implement these Regulations,
  - (e) set fees for processing applications under these Regulations.
- (6) The Council may develop policies, standards and procedures in relation to these Regulations including –
  - (i) monitoring the development, field testing, fermentation, release, use, handling and transboundary movement of genetically modified organisms within Niue, and other matters related to the application of modern biotechnology;
  - (ii) risk assessment and risk management applying to any aspect of the development, field testing, fermentation, release, use,

- handling and transboundary movement of genetically modified organisms within Niue, and other matters related to the application of modern biotechnology;
- (iii) identification and evaluation of adverse effects associated with genetic modification and the introduction of genetically modified organisms into Niue;
  - (iv) containment standards to be applied to any authorised use, development, field testing or release of a genetically modified organism;
  - (v) responding to unintentional and unlawful transboundary movements;
- (f) In developing such policies, standards and procedures, the Council shall take into account -
- (i) the impacts of genetically modified organisms on communities and areas within Niue;
  - (ii) the customs and traditions of Niue.

## 20 The Department

(1) The Department shall be the National Focal Point for all purpose associated with the Cartagena Protocol.

(2) For the purposes of these Regulations the Department may –

- (a) Provide secretariat and support services to the Council and any advisory committee;
- (b) Deal with requests for the review of decisions in accordance with Article 12 of the Cartagena Protocol, and refer such matters to the Council with such reports and additional information as required;
- (c) Arrange for certain information to be treated as confidential in accordance with these Regulations and the Cartagena Protocol;
- (d) Conduct programs of public awareness and education in relation to genetically modified organisms and applications of modern biotechnology, and facilitating public participation in relation to the processes prescribed by these Regulations and envisaged by the Cartagena Protocol in relation to their use and development within Niue;
- (e) Liaise with other Departments and agencies, and work collaboratively with them to –
  - (i) establish and maintain appropriate mechanisms, measures and strategies for the regulation, management and control of risks associated with genetically modified organisms and the application of modern biotechnology within Niue;
  - (ii) implement measures to control and prevent unintentional and illegal transboundary movements of genetically modified organisms, and to respond to such movements, including the taking of necessary emergency responses;
  - (iii) ensure that genetically modified organisms which are subject to transboundary movement are handled, packaged and transported under conditions of safety, and that relevant international standards and rules are applied in this regard;
  - (iv) ensure that genetically modified organisms within Niue, or proposed to be imported into Niue, are packaged and labelled so as to disclose their genetically modified organism content, and otherwise identified as being or containing genetically

- modified organisms as required by any law and by the Cartagena Protocol; and
- (v) facilitate the development and strengthening of human resources and institutional capacities within Niue in the field of biosafety; and
  - (f) Facilitate appropriate bilateral, regional and multilateral agreements and arrangements regarding intentional transboundary movements of genetically modified organisms, and for the sharing of information and the enhancement of institutional capacities for the purposes of applying the provisions of the Cartagena Protocol.

## 21 The Director

- (1) For the purposes of these Regulations, the Director may –
  - (a) Approve the provision of assistance and support to the Council and advisory committees;
  - (b) Require further information to be provided under the Advanced Informed Agreement Procedure;
  - (c) Make arrangements for the keeping of certain information confidential in accordance with the provisions of these Regulations and the Cartagena Protocol;
  - (d) Prepare information and reports required by the Cartagena Protocol;
  - (e) Arrange for the monitoring and reporting of the effects to the environment and on human health arising from genetically modified organisms and the application of modern biotechnology within Niue;
  - (f) Approve and implement any appropriate program of public information and education concerning genetically modified organisms and the implementation of the Cartagena Protocol; and
  - (g) Do any other act or thing necessary to manage the risks and maximise the benefits associated with genetically modified organisms and the application of modern biotechnology within Niue.
- (2) The powers of the Director shall be exercised consistently with decisions of the Council.

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### SCHEDULE

#### NOTIFICATION OF TRANSBOUNDARY MOVEMENT OF A GENETICALLY MODIFIED ORGANISM TO NIUE

##### Annex 1 of Cartagena Protocol

- 1 Name, address, telephone and facsimile numbers and email address of -
  - (a) Notifier
  - (b) Exporter
  - (c) Importer(s)
 (state the nature of the relationship between the notifier and the exporter or importer)
- 2 Name and identity of the LMO–
  - (a) Domestic classification
  - (b) Biosafety Level of LMO in the state of export

- 3 Purpose of the transboundary movement to Niue –  
 (a) Import for release  
 (b) Import for contained use  
 (c) Transit through the Niue (if so, give full details of destination and other relevant approvals)  
 (d) Direct use for food, feed or for processing  
 (Give full details of proposed purpose and means of release, contained use, transit or use as food, feed or for processing.)
- 4 Intended date/s and means of transboundary movement -
- 5 Taxonomic status –  
 (a) Common name  
 (b) Point of collection  
 (c) Characteristics recipient organism/or parental organism
- 6 Centres of origin -  
 (Describe the habitats where the organisms may persist)
- 7 Describe the nucleic acid or the modification introduced -  
 (a) What was the modification technique used for the development of the organism?  
 (b) What are the resulting characteristics of the genetically modified organism?
- 8 Give full details of the intended use of the Genetically Modified Organism.
- 9 Give full details of the quantity and volume of LMO to be transferred.
- 10 Has your organisation undertaken a risk assessment of the transferred LMO?  
 (Attach any available report and all supporting information and data)
- 11 Give full details of proposed method(s) for –  
 (a) safe handling  
 (b) storage  
 (c) transport and use  
 (d) packaging and labeling  
 (f) monitoring and reporting on effects  
 (g) disposal and emergency procedures
- 12 Regulatory status of LMO within the country of export –  
 (State any reason for any previous rejection of approval or ban of the LMO, and give full details of any breaches of any relevant law in another jurisdiction, or any criminal prosecution under such law)
- 13 Purpose, status and outcome of any notification by the exporter to any other country.
- 14 State or provide any other information known to the notifier, importer or exporter that is relevant to this application.

I .....declare that all the above information is correct.

.....  
 Signature

.....  
 Date



## EXTRADITION

[EDITORIAL NOTE: A list of orders relating to extradition and fugitive offenders is provided in the Table of Subsidiary Legislation.]





**FILM AND PUBLIC ENTERTAINMENT**  
**FILM AND PUBLIC ENTERTAINMENT (FEES) REGULATIONS**  
**2005**

2005/3 – 24 June 2003

- 1 Title**  
These are the Film and Public Entertainment (Fees) Regulations 2005.
- 2 Fees**  
The fees prescribed for the purpose of the Film and Public Entertainment Act 1979 are set out in the Schedule.

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SCHEDULE

Public Entertainment Premises Annual Licence	\$100.00
Dance Permit (per function)	\$10.00
Dance Permit beyond midnight (per function)	\$15.00



## GENERAL LAWS

### MARITIME SECURITY REGULATIONS 2004

2004/2 – 1 July 2004

1	Title	13	Ship Security Plans
2	Interpretation	14	Contingency procedures – ports
3	Application	15	Contingency procedures – ships
4	Port Security Officer's duties	16	Security training – ports
5	Maritime Security Committee	17	Security training – ships
6	Security levels	18	Police powers
7	Declaration of Security	19	Offences
8	Port Security Plan	20	Penalties
9	Port organisation and responsibility	21	Forms
10	Port Facility Operator's responsibility		
11	Other port users		SCHEDULES
12	Shipping organisation and responsibility		

#### 1 Title

These are the Marine Security Regulations 2004.

#### 2 Interpretation

(1) In these Regulations –

“authorised person” means a person with powers and duties under these Regulations;

“Committee” means the Maritime Security Committee established under regulation 5;

“company” means the owner or operator of a vessel to which these Regulations apply;

“Company security officer” means the person designated by the company for ensuring that a ship security assessment is carried out; that a ship security plan is developed, submitted for approval, and thereafter implemented and maintained and for liaison with port facility security officers and the ship security officer;

“Contracting Government” includes the Port Authority;

“Convention” means the International Convention for the Safety of Life at Sea, 1974 and its amendments (SOLAS);

“deadweight tonnage” means the total load of cargo, fuel, stores and ballast that a ship can carry;

“Department” means the department of Government with particular responsibility for Port Services and Shipping;

“disallowed item” means –

- (a) any thing made or altered for use for causing bodily injury or intended by the person who has the article for such use, any article capable of being used for causing bodily injury, any anaesthetising or other substance produced for use for disabling persons or intended by the person who the substance for such use, and
- (b) any thing capable of destroying or causing damage to or endangering the safety of a ship, port or port facility or persons on a ship or at a port or port facility, and
- (c) any thing likely to destroy or cause damage to or endanger the safety of a ship, port or port facility or persons on a ship or at a port or port facility;

“gross registered tonnage” means the total capacity of a vessel in tonnage units of 100 cubic feet;

“exclusion zone” means a waterside area to which access is temporarily restricted to persons authorised by the Ports Authority;

“facility operator” means port facility to which these Regulations apply;

“ISPS Code” means the International Ship and Port Facility Security Code;

“master” means a person having command or charge of a ship;

“Maritime Security Committee” means the Committee constituted under regulation 5;

“Minister” means the Minister responsible for National Security;

“Niue port” means a port in Niue that service ships engaged on international voyages;

“Niue ship” means a ship that is registered in Niue;

“Port Authority” means the Port Authority or the agency of the Executive Government of Niue responsible for the administration, management and operation of Niue ports and is, for the purposes of the ISPS Code, the Designated Authority;

“port facility” means the ship/port interface facility that provides for the interactions that occur when a ship is directly and immediately affected by actions involving the movement of persons, goods or the provisions of port services to or from the ship;

“port facility operator” means the manager of ship/port interface facility that provides for the interactions that occur when a ship is directly and immediately affected by actions involving the movement of persons, goods or the provisions of port services to or from the ship;

“port facility security officer” means a suitably qualified person designated by the facility operator responsible for the development, implementation, review and maintenance of the Port Facility Security Plan and for liaison with ship security officers, the company security officer and the port security officer;

“Port Facility Security Plan” means a plan developed to ensure the application of measures designed to protect any or all of the port facility and ships, persons, cargo, cargo transport units and ship’s stores within the port facility from the risks of a security incident;

“Port Security Plan” means a plan developed to ensure the application of measures designed to protect any of the port facilities of Niue or all of the port, and ships, persons, cargo, cargo transport units and ship’s stores within those port facilities or ports from the risks of a security incident and incorporates all port facility security plants;

- “Port security officer (PSO)” means a person designated as such by the port authority;
- “restricted areas” means areas on a ship to which access is restricted to crew, persons invited by the master or ship security officer and persons authorised pursuant to these regulations;
- “restricted zone” means landside areas to which access is restricted to persons authorised by the facility operator or persons authorised pursuant to these regulations;
- “screener” means a person, approved by the PSO, who conducts screening procedures;
- “screening procedures” means those measures involved in the inspection of people and goods, and the checking for disallowed items;
- “Security Level 1” means the level for which minimum appropriate protective security measures shall be maintained at all times;
- “Security Level 2” means the level for which appropriate additional protective security measures shall be maintained for a period of time as a result of heightened risk of a security incident;
- “Security Level 3” means the level for which further specific protective security measures shall be maintained for a limited period of time when a security incident is probable or imminent, although it may not be possible to identify the specific target;
- “Ship Security Officer” means the person on board a ship, accountable to the master, designated by the Company as responsible for the security of the ship, who shall perform those duties stipulated in the ISPS Code, including implementation and maintenance of the SSP, and liaison with the CSO and PSOs;
- “Ship Security Plan” means a plan developed to ensure the application of measures on board the ship designed to protect persons on board, cargo, cargo transport units, ship’s stores or the ship from the risks of a security incident;
- “sterile area” means an area of the port approved pursuant to these Regulations in which persons, vehicles and goods are not permitted until given clearance by an authorised person;
- “unaccompanied baggage” means any baggage, including personal effects, which is not with the passenger or member of ship’s personnel at the point of screening;
- “unlawful interference” includes without lawful excuse –
- (a) Seizing, or exercising control of, a ship by force, or threat of force, or any other form of intimidation;
  - (b) Damaging or destroying a ship that is in service;
  - (c) Placing, or causing to be placed, on board a ship in service a thing that is likely to –
    - (i) destroy the ship; or
    - (ii) endanger its safety;
  - (d) Communicating information, which is known to be false, thereby endangering the safety of a ship;
  - (e) Committing an act of violence against a person, property or the environment at a port, if the act –
    - (i) causes, or is likely to cause, injury or death; and
    - (ii) endangers, or is likely to endanger, the safe and efficient operation of the port or the safety of anyone at the port;
  - (f) Attempting to commit an act described in any of the above paragraphs.

(2) Terms not otherwise defined in this part shall have the same meaning as the meaning attributed to them in SOLAS.

(3) The following acronyms mean –

CSO	Company Security Officer
DWT	Dead Weight Tonnage
GRT	Gross Registered Tonnage
ISPS Code	International Ship and Port Facility Security Code
MSC	Maritime Security Committee
PFO	Port Facility Officer
PFSA	Port Facility Security Assessment
PFSO	Port Facility Security Officer
PFSP	Port Facility Security Plan
PSA	Port Security Assessment
PSO	Port Security Officer
PSP	Port Security Plan
RSO	Registered Security Organization
SSA	Ship Security Assessment
SSO	Ship Security Officer
SSP	Ship Security Plan

### 3 Application

These Regulations apply to —

- (a) Niue ships;
- (b) Niue ports and port facilities; and
- (c) All foreign vessels in Niue's waters to which the Convention applies;
- (d) Fishing vessels 12 metres in length and above fishing in the EEZ of Niue and international waters.

### 4 Port Security Officer's duties

The PSO is responsible for –

- (a) Initiating, developing, promoting and reviewing maritime security policy, legislation, standards and procedures;
- (b) Auditing and pursuing compliance with maritime security policy, legislation, standards and procedures;
- (c) Preparing Port Security Plans;
- (d) Drawing up and maintaining a list of vulnerable points of the ports, including essential equipment/facilities and review their security from time to time;
- (e) Promote security awareness amongst port workers/users and shipowners;
- (f) Coordinating the maritime security policy response to a threat or act, which threatens the security of the maritime transport sector;
- (g) Coordinating the provision of intelligence and information on threats to the maritime industry;
- (h) Facilitating the development, implementation, review and maintenance of the port security plan and liaison with port facility security offices and ship security officers, where appropriate;
- (i) In consultation with PFSOs, ensuring that appropriate security measures are maintained at the port;
- (j) Maintaining and supervising the implementation of the PSP, including any amendments to the PSP;
- (k) Proposing modifications to the PSP;

- (l) Reporting to the Committee any deficiencies and non conformities identified during internal audits, periodic reviews, security inspections and verifications of compliance and implementing any corrective actions;
- (m) Attending meetings of the Committee;
- (n) Enhancing security awareness and vigilance by all staff;
- (o) Ensuring adequate security training has been provided to port employees and agents with regard to their security roles and responsibilities and maintenance of training records;
- (p) Ensuring that security equipment is appropriately operated, tested, calibrated and maintained;
- (q) Ensuring effective communication and cooperation between the port and members of the port security committee;
- (r) Reporting all security incidents to the Committee; and
- (s) Overseeing the issue of copies of the PSP and maintaining a record of all authorised holders;
- (t) Ensuring compliance with the PSP and the implementation of complementary additional security measures as required by the Committee;
- (u) The PSO shall initiate periodic internal audits or reviews of the PSP to ensure compliance with, and appropriateness of, existing security measures.

## **5 Maritime Security Committee**

(1) The Maritime Security Committee is established for the purposes of maritime security of Niue.

(2) The Committee shall be appointed by Cabinet.

(3) The Chair of the Committee shall be appointed by Cabinet.

(4) The role of the Committee shall be to –

- (a) Coordinate the implementation of national maritime security measures in Niue ports and on Niue ships;
- (b) Provide a forum for the discussion of maritime security matters affecting port tenants/users and ships visiting the ports;
- (c) Provide a forum for communication between port tenants/users and shipowners on issues of security and procedures in place to meet threats, providing for normal situations and contingencies for periods of heightened tension and emergency situations;
- (d) Liaise, as considered appropriate, with external agencies to discuss security issues;
- (e) Provide advice on maritime security to the Committee, industry and the public; and
- (f) Advise the Committee of the need for additional security measures.

(5) The PSO shall ensure that a record of each meeting is kept and minutes are forwarded within one month of the meeting, either in written or electronic form, to all committee members.

(6) In the event of a security incident the PSO or shipowner must contact the Chair of the Committee who shall immediately convene a meeting of the Committee, along with other members as determined appropriate, who may set up a support team.

(7) The role of the support team under paragraph (6) is to –

- (a) Provide technical and operational advice and assistance to the police in relation to operational matters and resources available at the port;



- (b) Consult with the police, ensure the orderly conduct of other operations on the port not associated with the incident; and
- (c) Provide incident-related advice and information to their respective organisations and the Committee.

## 6 Security levels

(1) Cabinet shall, when necessary, and with the recommendation of the Committee, set security levels and provide guidance for protection from security incidents.

(2) Higher security levels indicate greater likelihood of occurrence of a security incident.

(3) Factors to be considered in setting the appropriate security level include –

- (a) The degree that the threat information is credible;
- (b) The degree that the threat information is corroborated;
- (c) The degree that the threat information is specific or imminent; and
- (d) The potential consequences of such a security incident.

(4) Cabinet shall, when necessary, with the recommendation of the Committee, issue appropriate instructions and shall provide security related information to the ships and port facilities that may be affected.

(5) Additional security measures may be implemented either at the direction of the PSO or on the initiative of the Port Authority or the ship owner who shall give immediately advise the PSO.

(6) The Committee may delegate as appropriate certain duties under these Regulations other than –

- (a) Setting of the applicable security level;
- (b) Approving a PSA/PFSA/SSA and subsequent amendments to an approved assessment;
- (c) Determining the port facilities that will be required to designate a PFSO;
- (d) Approving a PSP/PFSP/SSP and subsequent amendments to an approved plan.

## 7 Declaration of Security

(1) A Declaration of Security must be completed in respect of a port or port facility when Cabinet deems it necessary or when a master deems it necessary.

(2) A Declaration of Security records the agreement reached between the ship and the port facility or with other ships with which it interfaces as to the respective security measures each will undertake in accordance with the provisions of their respective approved security plans.

(3) The need for a Declaration of Security may be indicated –

- (a) By the PSO or PFSO;
- (b) By the results of the PFSA or PSA;
- (c) By the Maritime Administration of the flag state of a ship, or
- (d) By the result of a SSA.

(4) A ship can request a Declaration of Security when –

- (a) The ship is operating at a higher security level than the port facility or another ship it is interfacing with;
- (b) There is an agreement on a Declaration of Security between Contracting Governments covering certain international voyages or specific ships on those voyages;

- (c) There has been a security threat or a security incident involving the ship or involving the port facility, as applicable;
  - (d) The ship is at a port that is not required to have and implement an approved port facility security plan; or
  - (e) The ship is conducting ship-to-ship activities with another ship not required to have and implement an approved SSP.
- (5) If a ship, or a Maritime Administration on behalf of ships entitled to fly its flag, requests completion of a Declaration of Security, the PSO and SSO should acknowledge the request and discuss appropriate security measures.
- (6) The Declaration of Security should be signed and dated by both the PSO and the master of SSO on behalf of the ship, as applicable, to indicate compliance with SOLAS chapter XI-2 and Part A of the ISPS Code and states its duration, the relevant security level and the relevant contact details.
- (7) The Declaration of Security shall be completed in English and in the form prescribed in Schedule 8.

## **8 Port Security Plan**

- (1) The Committee shall under these Regulations conduct a PSA and produce a PSP, issued under the authority of Cabinet.
- (2) The PSO shall prepare the Draft PSP and the Committee may approve its content prior to its circulation to those offices or persons approved by the Committee and shall approve all amendments prior to their being put into effect.
- (3) The PSO may amend the PSP as necessary, subject to approval by the MSC.
- (4) The completed PSP is classified “Confidential” and, while selected members of staff will need to be appraised of particular aspects of the Plan, it shall be protected from unauthorised access or disclosure.
- (5) No part of the PSP may be reproduced or transmitted, in any form or by any means, without the written consent of the Committee.

## **9 Port organisation and responsibility**

- (1) All employees and agents of the Port Authority whose duties require them to implement security controls at the port or routinely access a restricted zone at the port must ensure that the protective security arrangements covered by the PSP are observed at all times.
- (2) Any employee or agent on becoming aware of a –
- (a) Breach or suspected breach of security arrangements;
  - (b) Any deficiency in the PSP; or
  - (c) Who observes activities of a suspicious nature;
- must report the matter immediately to the PSO.
- (3) The Port Authority shall appoint a PSO who, with the authority of management, shall administer the day-to-day operations of the PSP at the port.

## **10 Port Facility Operator’s responsibility**

- (1) The Port Facility Operator shall, in co-operation with the Committee and in accordance with these Regulations, conduct a PFSA and produce a PFSP, issued under the authority of PSO.
- (2) The PFSP shall be incorporated into the overall PSP where appropriate.
- (3) The PSO shall review the draft PFSP and may approve its content prior to its circulation and shall approve all amendments prior to their being put into effect.

(4) The PSO may amend the PSP as necessary, subject to approval by the Committee.

- (5) Port Facility Operators, lessees and tenants are responsible for –
- (a) The security of their facilities and areas specifically allocated for their use;
  - (b) Maintaining access control procedures as they apply to any of their facilities; and
  - (c) Ensuring that any staff or other persons such as contractors, who enter restricted zones or sterile areas do so only on current essential duties related to that area;

which would be effected through contractual arrangements.

(6) Port Facility Operators, lessees and tenants may be required, at short notice from the Port Authority or the PSO, to comply with security systems and/or procedure variations resulting from increases in maritime security threats.

(7) Security exercises, to test measures and response arrangements, shall be conducted by the PSO at a frequency agreed with the Committee.

(8) The object of the exercises is to not only test response arrangements to a simulated act of unlawful interference but also to –

- (a) Practice call out of all involved elements;
- (b) Test the adequacy of facilities;
- (c) Exercise members of the port security committee in the provision of effective support to police operational elements; and
- (d) Test the adequacy of appropriate contingency plans.

(9) The PSO and appropriate PSFOs will review each security exercise and submit a formal report to the Committee, within one month of the completion of the exercise.

## **11 Other port users**

Any person who enters the port is required to comply with all regulatory provisions brought to their notice by any means including public notices, signs, announcements, publications or oral messages.

## **12 Shipping organisation and responsibility**

(1) The Company shall ensure compliance with the SSP and for the implementation of complementary additional security measures as required by the Committee.

(2) The Company shall initiate periodic internal audits or reviews of the SSP to ensure compliance with, and appropriateness of, existing security measures.

(3) The Company shall appoint a CSO, who, with the authority of management, shall administer the overall operations of the SSP on all the Company's ships.

(4) The Company shall appoint a SSO for each ship, who, with the authority of management, shall administer the day-to-day operations of the SSP on each of the Company's ships.

- (5) The duties and responsibilities of the CSO shall include –
- (a) Advising the level of threats likely to be encountered by the ship, using appropriate security assessments and other relevant information;
  - (b) Ensuring that ship security assessments are carried out and regularly reviewed;
  - (c) Ensuring the development, the submission for approval, and thereafter the implementation and maintenance of the SSP;

- (d) Ensuring that the SSP is amended, as appropriate, to correct perceived shortcomings and satisfy the security requirements of the individual ship;
  - (e) Arranging for internal audits and reviews of security activities;
  - (f) Ensuring that deficiencies and non-conformities identified during internal audits, periodic reviews, security inspections and verifications of compliance are promptly addressed and dealt with;
  - (g) Enhancing security awareness and vigilance;
  - (h) Ensuring adequate training for personnel responsible for the security of the ship;
  - (i) Ensuring effective communication and cooperation between the SSO and the relevant PFSOs and the PSO;
  - (j) Ensuring consistency between security requirements and safety requirements;
  - (k) Ensuring that, if sister-ship or fleet security plans are used, the plan for each ship reflects the ship-specific information accurately;
  - (l) Ensuring that any alternative or equivalent arrangements approved for a particular ship or group of ships are implemented and maintained; and
  - (m) Authorising the issue of copies of the SSP and maintaining a record of all authorised holders.
- (6) The duties and responsibilities of the SSO include –
- (a) Undertaking regular security inspections of the ship to ensure that appropriate security measures are maintained;
  - (b) Maintaining and supervising the implementation of the SSP, including any amendments to the SSP;
  - (c) Coordinating the security aspects of the handling of cargo and ship's stores with other shipboard personnel and with the relevant PFSOs;
  - (d) Proposing modifications to the SSP;
  - (e) Reporting to the CSO any deficiencies and non conformities identified during internal audits, periodic reviews, security inspections and verifications of compliance and implementing any corrective actions;
  - (f) Enhancing security awareness and vigilance on board;
  - (g) Ensuring adequate training has been provided to shipboard personnel with regard to their security roles and responsibilities and maintenance of training records;
  - (h) Reporting all security incidents;
  - (i) Coordinating implementation of the SSP with the CSO and the relevant PFSO; and
  - (j) Ensuring that security equipment is properly operated, tested, calibrated and maintained.
- (7) All employees and agents of the company, including crew, must ensure that the protective security arrangements covered by the SSP are observed at all times. Any employee or agent becoming aware of a –
- (a) Breach or suspected breach of security arrangements;
  - (b) Any deficiency in the SSP; or
  - (c) Who observes activities of a suspicious nature;
- must report the matter immediately to the CSO or SSO as appropriate.
- (8) Nothing in these Regulations removes from the master the overriding authority and responsibility to make decisions with respect to the safety and security of the ship and to request the assistance of the Company or of any government as may be necessary.

### 13 Ship Security Plans

(1) Companies owning ships that are operating in Niue waters shall, in accordance with these Regulations and following discussion with the Committee, conduct a SSA and produce a SSP, issued under the authority of CSO.

(2) The PSO shall review the Draft SSP and the Committee may approve its content prior to its circulation to those offices and persons approved by the Committee and shall approve all amendments prior to their being put into effect.

(3) The CSO may amend the Plan as necessary, subject to approval by the Committee.

(4) The completed SSP is classified "Confidential" and, while company staff and ship's crew will need to be appraised of particular aspects of the SSP, it shall be protected from unauthorised access or disclosure.

(5) No part of the SSP may be reproduced or transmitted in any form or by any means, without the written consent of the CSO.

(6) The CSO may, at any time, review the SSP and in reviewing the SSP the CSO may have regard to –

(a) Developments in relation to human and other resources used and procedures followed concerning ship security; and

(b) Experience gained in relation to ship security by other ship operators.

(7) If the CSO is satisfied that –

(a) The approved SSP is no longer adequate for any one or more of the SSP purposes; or

(b) The effectiveness of the SSP for those purposes could be substantially improved;

the CSO should prepare and submit to the Committee for approval, proposals for any variation of the SSP considered necessary.

### 14 Contingency Procedures – ports

(1) In the event of an employee or agent of the Port Authority or Port Facility Operator becoming aware of a significant act of unlawful interference or an unlawful threat, that person shall report the incident threat as soon as practicable to the PSO.

(2) Where the incident/threat directly impacts upon another organisation, or may impact upon one or other organisations, the PSO is to relay details of the incident threat to the organisation(s) concerned as soon as possible.

(3) The assessing and classifying of all threats, such as bomb or sabotage threats, against any of the port's amenities rests with the Committee, whereas assessing and classifying threats against a Port Facility Operator's amenities rests with the agency concerned.

(4) Threats are to be classified as either "GENUINE", in which case appropriate response procedures are to be instigated and followed, or "HOAX", in which case no further action (other than to report the incident to the police and the PSO) is required.

(5) Where the search of a building or facility (over which the Port Authority or Port Facility Operator has management control) is considered necessary, the threat shall be considered to remain genuine until the PSO advises that the threat has been reclassified as a hoax, or any suspicious object discovered during the search has been removed or declared safe.

(6) The PSO will report to the police details of significant breaches of security or threats impacting upon the operations of the Port Authority or Port Facility Operator involving violence.



(7) The PSO is to report, at the earliest opportunity, all security related incidents as well as actual or suspected acts of terrorism impacting upon the operations of the Port Authority or Port Facility Operator such as –

- (a) Discovery of weapons or disallowed items within the port or Port Facility;
- (b) Unauthorised access to restricted areas;
- (c) Unauthorised access to a ship;
- (d) Bomb or sabotage threats;
- (e) Disruptive and/or abusive passengers or stevedores; and
- (f) Incidents that have attracted media attention

to the Committee.

(8) Contingency procedures shall be developed and maintained to provide for situations that could present a threat to the security of the port or Port Facility.

(9) These procedures shall form part of the PSP or PFSP.

(10) Other types of emergencies that should be provided in the PSP or PFSP include –

- (a) Bomb search routine;
- (b) Evacuation procedures;
- (c) Security equipment failure; and
- (d) Action to be taken in respect of a major security incident at the port.

(11) Where it may not be possible to provide a full report within a reasonable time frame, due to the need to investigate certain aspects, a preliminary report shall be forwarded.

(12) The type of information that the PSO should include in any report to the Department is detailed at Schedule 6.

## **15 Contingency Procedures – ships**

(1) In the event of any person becoming aware of an act of unlawful interference on board a ship at sea or in port or an unlawful threat, that person shall report details of it as soon as practicable to the master, SSO or CSO as appropriate.

(2) Where the incident or threat directly impacts upon or may impact upon another organisation, the master or CSO must relay details of the incident/threat to the other organisation as soon as possible.

(3) The duty of assessing and classifying of all threats, such as bomb or sabotage threats, against the ship or other facilities rests with the Company.

(4) Threats are to be classified as either “GENUINE”, in which case appropriate response procedures are to be instigated and followed, or “HOAX”, in which case no further action (other than to report the incident to the local police and the PSO) is required.

(5) Where the search is considered necessary, the threat shall be considered to remain genuine until the master or CSO advises that the threat has been reclassified as a hoax, or any suspicious object discovered during the search has been removed or declared safe.

(6) The master or CSO will report to the local police details of significant breaches of security or threats impacting upon the operations of the ship involving violence.

(7) The master or CSO shall report, at the earliest opportunity, all incidents as well as actual or suspected acts of terrorism or other acts of unlawful interference that may affect the security of the ship, such as –

- (a) Discovery of weapons or disallowed items aboard the ship;
- (b) Unauthorised access to restricted areas;
- (c) Unauthorised access to the ship;
- (d) Bomb or sabotage threats;
- (e) Disruptive and/or abusive passengers; and
- (f) Incidents that have attracted media attention

to the Committee.

(8) Contingency procedures shall be developed and maintained to provide for situations that could present a threat to the security of the ship and shall form part of the SSP.

(9) Other types of emergencies that should be provided in the SSP include –

- (a) Bomb search routine in port;
- (b) Bomb search routine at sea
- (c) Repelling unsolicited boarders at sea;
- (d) Evacuation of the vessel;
- (e) Security equipment failure; and
- (f) Security procedures while in dry-dock or extended maintenance.

(10) Where it may not be possible to provide a full report within a reasonable time frame, due to the need to investigate certain aspects, a preliminary report shall be forwarded.

(11) The type of information that the SSO should include in any report to the CSO is detailed at Schedule 7. Upon receipt of the report the CSO shall forward a copy to the Department, which may contain supplementary information.

## **16 Security training – ports**

(1) Responsibility for developing and maintaining the security awareness and training of the Ports Authority's employees and agents rests with the PSO and the Committee.

(2) The PSO and the Committee shall ensure that relevant employees and agents of the Ports Authority are provided with a basic level of training, the object of which is to establish a rudimentary level of security awareness. The minimum level of training shall include the following –

- (a) Port layout and organisations;
- (b) The role of the Port Authority, the PSO, Police and other government agencies;
- (c) Basic port security procedures;
- (d) Access control;
- (e) Threat response; and
- (f) Other training specific to their duties.

(3) The Committee through the PSO shall ensure that employees and agents of the Ports Authority engaged in port security activities undertake more advanced training, which as a minimum shall include –

- (a) Principles of protective maritime security;
- (b) Legislation;
- (c) IMO standards;
- (d) Law enforcement interface;
- (e) Passenger and baggage screening (where applicable);
- (f) Bomb threat assessment; and
- (g) Search and evacuation guidelines.

(4) The training modules offered shall be reviewed periodically, as shall the need for refresher training, with regard being given to developments in equipment used and procedures.



(5) The PSO shall ensure that records on the content, duration and dates of those training activities undertaken by employees and agents of the Ports Authority are retained for the previous five years.

(6) Port Facility Security Training is the responsibility of the Port Facility Operator who shall develop and maintain security awareness and training of its employees and agents, and shall follow as closely as possible the procedures required to be followed by the Port Authority for the ports in paragraphs (1) to (4)

#### **17 Security Training – ships**

(1) The Company will ensure that all crew are provided with sufficient training to enable them to understand and carry out their security responsibilities.

(2) Training will consist of initial training in procedures and practices applicable to their position and, as appropriate, refresher training, which takes into account developments in relation to the equipment used and procedures followed relative to maritime security.

(3) The Company shall ensure that records of the content, duration and dates of those training activities undertaken by crewmembers are retained for the previous 5 years.

(4) Crew must be provided with current travel advice information prepared by the Office of External Affairs for those foreign ports they are to operate to or from and the potential impact that any special port security procedures in place may have.

#### **18 Police powers**

In addition to the powers and responsibilities set out in these Regulations and in any other enactment in relation to the management and enforcement of maritime security, any constable shall have all the powers necessary for the proper enforcement of these Regulations.

#### **19 Offences**

(1) Any person who contravenes or fails to comply with these Regulations, or the directions of an authorised person acting under these Regulations, commits an offence.

(2) Any person who possesses a disallowed item commits an offence.

(3) Any person who commits an act of unlawful interference commits an offence.

#### **20 Penalties**

A person who commits an offence under these Regulations is liable on conviction to a fine not exceeding 100 penalty units or a term of imprisonment not exceeding 12 months.

#### **21 Forms**

Forms to be used as those set out in Schedules 1 to 8.

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SCHEDULES

SCHEDULE 1

Form of the International Ship Security Certificate

NIUE

INTERNATIONAL SHIP SECURITY CERTIFICATE

(Official seal)

(State)

Certificate Number.....

Issued under the provisions of the  
INTERNATIONAL CODE FOR THE SECURITY OF SHIPS  
AND OF PORT FACILITIES (ISPS CODE)

Under the authority of the Government of Niue  
by the Minister of National Security

Name of ship: .....  
Distinctive number or letters: .....  
Port of registry:.....  
Type of ship: .....  
Gross tonnage: .....  
IMO Number: .....  
Name and address of the Company: .....

THIS IS TO CERTIFY:

- 1 That the security system and any associated security equipment of the ship has been verified in accordance with section 19.1 of Part A of the ISPS Code.
- 2 That the verification showed that the security system and any associated security equipment of the ship is in all respects satisfactory and that the ship complies with the applicable requirements of chapter X1-2 of the Convention and Part A of the ISPS Code.
- 3 That the ship is provided with an approved Ship Security Plan.

Date of initial/renewal verification on which this certificate is based .....

This Certificate is valid until .....

subject to verifications in accordance with section 19.1.1 of Part A of the ISPS Code.

Issued at Alofi by the Secretary to ..... Government  
(signature)

Issued on the.....day of .....20.....(Seal or Stamp)

ENDORSEMENT FOR INTERMEDIATE VERIFICATION

THIS IS TO CERTIFY that at an intermediate verification required by section 19.1.1 of part A of the ISPS Code the ship was found to comply with the relevant provisions of chapter X1-2 of the Convention and Part A of the ISPS Code.

Intermediate verification - Signed.....  
(Secretary to Government)

At Alofi on the.....day of.....20.....

(Seal or Stamp or the authority, as appropriate)

ENDORSEMENT FOR ADDITIONAL VERIFICATIONS\*

Additional verification - Signed.....  
(Signature of Secretary to Government)

At Alofi on the.....day of.....20.....

(Seal or Stamp or the authority, as appropriate)

Additional verification - Signed.....  
(Signature of Secretary to Government)

At Alofi on the.....day of.....20.....

(Seal or Stamp or the authority, as appropriate)

Additional verification - Signed.....  
(Signature of Secretary to Government)

At Alofi on the.....day of.....20.....

(Seal or Stamp or the authority, as appropriate)

\*This part of the certificate shall be adapted by the Maritime Administration/Port Authority to indicate whether it has established additional verifications as provided for in section 19.1.1.4.

ADDITIONAL VERIFICATION IN ACCORDANCE WITH SECTION A/193.7.2 OF THE ISPS CODE

THIS IS TO CERTIFY that at an additional verification required by section 19.3.7.2 of Part A of the ISPS Code the ship was found to comply with the relevant provisions of chapter X1-2 of the Convention and Part A of the ISPS Code.

Additional verification - Signed.....  
(Signature of Secretary to Government)

At Alofi on the.....day of.....20.....

(Seal or Stamp or the authority, as appropriate)

ENDORSEMENT TO EXTEND THE CERTIFICATE IF VALID FOR LESS THAN 5 YEARS WHERE SECTION A/19.3.3 OF THE ISPS CODE APPLIES

The ship complies with the relevant provisions of Part A of the ISPS Code, and the Certificate shall, in accordance with section 19.3.3 of Part A of the ISPS Code, be accepted as valid until the.....day of.....20 .....

Signed.....  
(Signature of Secretary to Government)

At Alofi on the.....day of.....20.....

(Seal or Stamp or the authority, as appropriate)

ENDORSEMENT WHERE THE RENEWAL VERIFICATION HAS BEEN COMPLETED AND SECTION A/19.3.4 OF THE ISPS CODE APPLIES

The ship complies with the relevant provisions of Part A of the ISPS Code, and the Certificate shall, in accordance with section 19.3.4 of Part A of the ISPS Code, be accepted as valid until the.....day of.....20 .....

Signed.....  
(Signature of Secretary to Government)

At Alofi on the.....day of.....20.....

(Seal or Stamp or the authority, as appropriate)

ENDORSEMENT TO EXTEND THE VALIDITY OF THE CERTIFICATE UNTIL REACHING THE PORT OF VERIFICATION WHERE SECTION A/19.3.5 OF THE ISPS CODE APPLIES OR FOR A PERIOD OF GRACE WHERE SECTION A/19.3.6 OF THE ISPS CODE APPLIES

This Certificate shall, in accordance with section 19.3.5 19.3.6\* of Part A of the ISPS Code, be accepted as valid until the.....day of.....20.....

Signed.....  
(Signature of Secretary to Government)

At Alofi on the.....day of.....20.....

(Seal or Stamp or the authority, as appropriate)

ENDORSEMENT FOR ADVANCEMENT OF EXPIRY DATE WHERE SECTION A/19.3.71 OF THE ISPS CODE APPLIES

In accordance with section 19.3.7.1 part A of the ISPC Code, the new expiry date\*\* is the .....day of.....20.....

Signed.....  
(Signature of Secretary to Government)

At Alofi on the.....day of.....20.....

(Seal or Stamp or the authority, as appropriate)

\*Delete as appropriate.

\*\*In case of completion of this part of the certificate the expiry date shown on the front of the certificate shall also be amended accordingly.

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SCHEDULE 2  
Form of the INTERIM International Ship Security Certificate

NIUE  
INTERIM INTERNATIONAL SHIP SECURITY CERTIFICATE

(Official seal)

(State)

Certificate Number .....

Issued under the provisions of the  
INTERNATIONAL CODE FOR THE SECURITY OF SHIPS  
AND OF PORT FACILITIES (ISPS CODE)

Under the authority of the Government of Niue  
by the Minister of National Security

Name of ship: .....  
Distinctive number or letters: .....  
Port of registry:.....  
Type of ship: .....  
Gross tonnage: .....  
IMO Number: .....  
Name and address of the Company: .....

Is this a subsequent, consecutive interim certificate? Yes No\*  
If Yes, date of issue of initial interim certificate .....

THIS IS TO CERTIFY THAT the requirements of section A 19.4.2 of the ISPS Code have been complied with.

This Certificate is issued pursuant to section A/19.4 of the ISPS Code.

Date of initial/renewal verification on which this certificate is based .....

This Certificate is valid until .....  
subject to verifications in accordance with section 19.1.1 of Part A of the ISPS Code.

Issued at Alofi by the Secretary to Government (signature)

Issued on .....day of.....20..... (Seal or Stamp)

\*Delete as appropriate  
\_\_\_\_\_

SCHEDULE 3

Form of the International Ship Security Certificate

NIUE  
STATEMENT OF COMPLIANCE OF A PORT OR PORT FACILITY

(Official seal)

(State)

Certificate Number .....

Issued under the provisions of the  
INTERNATIONAL CODE FOR THE SECURITY OF SHIPS  
AND OF PORT FACILITIES (ISPS CODE)

Under the authority of the Government of Niue  
by the Minister of National Security

Name of Facility: .....

Address: .....

Telephone: ..... Fax: .....

Chief Executive Officer ..... Email .....

Port Facility Security Officer and Contact Details

Harbour Master ..... Email .....

Telephone ..... FaxMobile .....

THIS IS TO CERTIFY THAT the requirements of the provisions of SOLAS Chapter X1-2  
and Part A of the ISPS Code have been complied with

Date of initial/renewal verification on which this certificate is based .....

This Certificate is valid until .....

Issued at Alofi by the Secretary to Government ..... (signature)

Issued on the the .....day of.....20..... (Seal or Stamp)

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## SCHEDULE 4

## GUIDELINES FOR THE DEVELOPMENT OF PORT AND PORT FACILITY SECURITY PLANS

The following is for the guidance of ship owners and operators of ships to whom these Regulations apply.

**1 Facility Access Control Measures**

(1) Peripheral protection of the restricted zone is provided by intrusion protection and detection equipment. It is normally achieved by installing security barriers (fencing), which can be complemented by installing peripheral or close intrusion detection equipment and/or intrusion display equipment. Openings in security barriers should be kept to a minimum and secured when not in use. Security barriers should accomplish the following –

- (a) Define the area to be protected;
- (b) Create a physical and psychological deterrent to persons attempting or contemplating unauthorised entry;
- (c) Delay intrusion, enabling operating personnel and security guards to detect and apprehend intruders; and
- (d) Provide designated and readily identifiable places for entry of personnel and vehicles into areas where access is controlled.

(2) Where feasible, buildings and other suitable permanent obstacles should be used as part of the physical barrier, provided that access through the buildings used is controlled. If buildings are used as part of the security barrier, they should be inspected to ensure that windows, roofs, ventilation openings, etc., do not provide for unauthorised access, with consideration being given to the fitting of bars, grills or screens.

**2 Access Control Measures – Staff**

Only those employees/agents who have a legitimate need to access the facility operator's restricted zone shall enter the area. Other staff members will need to justify a need for access to the PFSO.

**3 Access Control Measures – Service Providers & Visitors**

(1) Where a service provider, such as a maintenance contractor or a ship's provider, requires access to a restricted zone their need to access the area shall be verified with the requesting organisation.

(2) Where that need can be established the person(s) may be authorised to enter the restricted zone. However, where the need cannot be established the person is to be denied entry and the matter brought to the attention of the PFSO, who in turn may consider it appropriate to inform the police.

(3) Visitors with a legitimate requirement for access to a restricted zone shall remain under supervision by their sponsor at all times during the visit.

(4) The identify of each non-employee/non-agent provided access to the restricted zone is to be recorded, for each visit, in a visitor's register. The minimum detail to be recorded shall comprise their name, organisation represented, arrival time, departure time, who sponsored their visit. The register is to also show the signature of the person authorising their access to the restricted zone.

(5) Records of those persons authorised to access the restricted zone will be retained by the PFSO for a period of twelve months.

**4 Access Control Systems**

(1) Where access points into the restricted zone are key-controlled a restricted key system is to be used.

(2) Keys will only be issued, by the PFSO, to authorised persons (e.g. staff and regular contractors) who have a valid reason to access to the restricted zone in the course of their duties.

(3) A key register will be maintained detailing to whom specific keys have been issued as well as the date of issue and return (where appropriate). Recipients are to sign the register for each key issued.

(4) Change of coding should be considered where control of any key is lost. Coding must be changed when 5% or more of the keys to any particular lock cannot be accounted for.

(5) Where an electronic access control system is fitted access rights will only be provided, by the PFSO, to authorised persons who have a valid reason to access the restricted zone in the course of their duties.

(6) A register of those with access rights will be maintained detailing to whom specific rights have been provided as well as the date granted, date withdrawn (where appropriate), the areas into which the holder has access and any prohibitions that may apply (e.g. access limited to certain hours).

(7) The PFSO shall audit bi-annually the manual and electronic systems registers and ensure that any deficiencies are rectified within one month of the audit.

(8) Keys and access cards, or changes to access cards, will only be effected where the applicant has requested the issue change in writing and the request is approved by their supervisor/manager.

## **5 Electronic Surveillance**

Enhanced surveillance over specific facilities/installations or specific areas may be determined essential to guard against a perceived threat and could involve the use of the following types of equipment: CCTV or intruder detection systems.

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SCHEDULE 5  
GUIDELINES FOR THE DEVELOPMENT OF SHIP SECURITY PLANS

The following is for the guidance of ship owners and operators of ships to whom these Regulations apply.

**1 Restricted areas**

- (1) Ship Security Plans shall show the following –
  - (a) The location of restricted areas, (e.g. bridge, engine room, steering gear compartments, officers' cabins and crew accommodation);
  - (b) The location and function of actual or potential access points (e.g. ladders, gangways, scuttles, mooring lines and cranes); and
  - (c) Spaces with security and surveillance equipment, cargo spaces, spaces containing ship's stores or hazardous substances.
- (2) A sign advising those areas that are restricted to authorised personnel shall be prominently displayed on those doors providing initial access to each restricted area. These signs will be maintained in good condition and be clearly legible.

**2 Access control**

- (1) It is Company policy that all entrances to the ship are closed unless the master decides there are operational reasons to have one or more of these open. All open access points must be protected to the same standard.
- (2) The master should consider all operational and potential security impacts when deciding how many gangways are rigged at each port. This decision should consider the Security Level and allocation of crew for security surveillance activities.
- (3) While in port no shell door will be opened under any circumstances without the express permission of the Officer on Watch. At sea, no shell door will be opened without permission of the master. Where a shell door is to remain open a member of crew shall be placed on guard duty to prohibit unauthorised entry.
- (4) All doors allowing access to restricted areas shall be secured (where practicable), controlled and regularly inspected. The intention is to establish secure areas that unauthorised persons will find difficult to penetrate while being cognisant of other requirements such as the need to provide for emergency egress.
- (5) Where an access point is via a gangway, ramp or ladder and is used at night, the area surrounding that access point shall be adequately illuminated.
- (6) All persons, other than crew, proposing to board the ship will need to have a justifiable reason to access the ship prior to entry being authorised.
- (7) Crewmembers shall challenge all persons, other than authorised crew, in a restricted area should the person not be displaying an appropriate form of company identification or the person is not under escort by another member of the crew.
- (8) The identity of those persons authorised the access a restricted area shall be recorded, for each visit, in a visitor's register. The minimum detail to be recorded shall comprise their name, organisation represented, arrival time, departure time, who sponsored their visit. The register is to also show the signature of the person authorising their access to the restricted area.
- (9) Records of those persons authorised to access the restricted area will be retained by the SSO for a period of twelve months.
- (10) Visitors, other than service providers such as an accredited maintenance contractor or ship's provider, with a legitimate requirement to access a restricted area shall remain under supervision of the SSO, or someone nominated by the SSO, while within a restricted area.

**3 Access Control Systems**

- (1) Where access points into the restricted area are key-controlled a restricted key system is to be used.
- (2) Keys will only be issued, by the SSO, to crewmembers who have a valid reason to access to the restricted area in the course of their duties.

(3) A key register will be maintained detailing to whom specific keys have been issued as well as the date of issue and date of return (where appropriate). Recipients are to sign the register for each key issued.

(4) Where an electronic access control system is fitted access rights will only be provided, by the SSO, to crewmembers who have a valid reason to access the restricted area in the course of their duties.

(5) A register of those with access rights will be maintained detailing to whom specific rights have been provided as well as the date granted, date withdrawn (where appropriate), the areas into which the holder has access and any prohibitions that may apply (e.g. access limited to certain hours).

(6) The SSO shall audit bi-annually the manual and electronic systems registers and ensure that any deficiencies are rectified within an agreed timeframe, which shall be as soon as practicable.

(7) Keys and access cards, or changes to access cards, will only be effected where the applicant has requested the issue change in writing and the request is approved by their supervisor/manager.

#### **4 Restricted Area Breach**

(1) In the event of a detected breach of security in a restricted area the SSO will arrange for the incident to be investigated and a sweep of the affected area will be conducted. The purpose of the sweep will be to determine the method of unauthorised access, check for evidence of tampering to commodities, etc., and locate any suspicious objects prior to the recommencement of operations in the area.

(2) In each case those security measures and procedures breached will be re-evaluated with the view to remedying any inherent or perceived weaknesses.

#### **5 Screening of Passengers and their Baggage**

(1) On each occasion that a prospective passenger presents for boarding the company will ensure that –

- (a) The passenger has valid travel documentation;
- (b) Baggage is only accepted from ticketed passengers;
- (c) Baggage is only accepted at a designated check-in point;
- (d) A tag displaying the relevant passenger's name and the total number of items checked in, at that time, by that passenger is securely attached to each item of baggage accepted for carriage; and
- (e) Prior to the baggage being loaded, baggage accepted for carriage will not be accessible by a person other than person authorised by the port facility operator or company, the owner of the item (once they have been screened), and those involved in loading the item aboard the ship.

(2) The company will ensure that all passengers and their possessions are, prior to their entering any sterile area used for departing passengers, subject to screening procedures by an approved screener unless specifically exempted pursuant to the Department's maritime security regulations.

(3) The company will ensure that the sterile area into which the screened passengers pass is an area properly secured against unauthorised entry and exit.

(4) Where there is no sterile area the company will ensure that all passengers and their possessions are, prior to their being provided access to the ship, subject to screening procedures by an approved screener unless specifically exempted pursuant to the Department's maritime security regulations.

(5) The company will ensure that passengers, or intending passengers, of the ship who have been screened do not make physical contact with persons, vehicles or goods that have not been screened or cleared for purposes of maritime security unless the persons, vehicles or goods are specifically exempted pursuant to the Department's maritime security regulations.

(6) When a weapon or other disallowed item is detected during the screening process it must be surrendered if the passenger wishes to travel. Surrendered weapons or disallowed items may be carried aboard the ship in a secure manner and returned to the passenger at his or her destination point.

(7) An approved screener must not screen a passenger, other than by a physical search, should the passenger elect to be screened by means of a physical search.

(8) The tag attached to unaccompanied baggage is to be checked prior to the baggage being loaded aboard the ship. Any accompanied baggage that is not tagged shall not be loaded until the legitimacy of the baggage can be verified by the SSO.

(9) Strict control shall be exercised over tags used to identify authorised baggage to limit the likelihood of rogue bags being introduced into the baggage stream.

(10) When in an overseas port, prior to allowing any passengers and their baggage aboard, the SSO/CSO will need to be satisfied that security measures, in relation to the handling of passengers and their baggage are consistent with the ISPS Code.

6 ...

## 7 Screening of Ship's Crew and Visitors

(1) All crew, guests of crew and service providers (e.g. maintenance contractors and providers), and goods in their possession will be screened should they board the ship via an active passengers screening point, unless specifically exempted pursuant to the Department's maritime security regulations.

(2) Crew, guests of crew and service providers who enter the ship via an alternate means, separate from the sterile area, need not be subject to screening.

## 8 Crew Baggage

(1) Until baggage is checked in or taken aboard the ship, crewmembers are at all times responsible for the security integrity of their baggage.

(2) Where crew baggage is consolidated prior to check-in or being stowed aboard the ship, the baggage is to be kept under constant surveillance by a crewmember or other authorised person.

## 9 Cargo Handling

(1) Cargo accepted for export (from Niue) shall be in accordance with Niue Customs Service requirements. This recognises that all goods for export come under Customs control and also recognises the established preventive security measures, both physical and procedural, that Niue Customs Service has in place with regard to those goods.

(2) Prior to loading packaged and containerised export or domestic cargo the cargo is to undergo a cursory inspection to ensure that there are no obvious signs of tampering.

(3) Any obvious signs of tampering or damage must be referred to the SSO and the cargo handler. If a satisfactory explanation cannot be established the cargo shall not be accepted. Should there be a satisfactory reason for the loss of integrity then the damage shall be made good before acceptance.

(4) The SSO shall contact the local police or the Australian Customs Service in suspicious circumstances.

(5) For both export and domestic cargo, where a cargo handler (e.g. stevedore) who is challenged by a crewmember is unable to produce appropriate identification then the goods shall not be accepted.

(6) When the ship is in an overseas port, prior to accepting goods the SSO/CSO will need to be satisfied that security measures, in relation to the handling of cargo, are consistent with the ISPS Code.

## 10 Ship's Stores

(7) All stores are to be individually accepted by a member of the ship's crew, with evidence that they were ordered made available prior to their being loaded aboard the ship.

(8) Prior to acceptance, the goods are to undergo a cursory inspection by crew to ensure that there are no obvious signs of tampering.

(9) Any signs of obvious tampering or damage must be referred to the SSO and the port facility operator/transporter. If a satisfactory explanation cannot be established the goods are not to be accepted. Should there be a satisfactory reason for the loss of integrity then the damage shall be made good before acceptance.

(10) For passenger ships, and where X-ray equipment is in use, the stores should (where possible) be "broken down" and screened via the use of the X-ray equipment, which is to be operated by an approved screener.

(11) For passenger ships, where X-ray equipment is not available, or the item is too large to fit through the frame of the X-ray equipment, those stores are to be subject to a detailed physical search by approved screeners.

(12) In a limited number of cases those screening the stores may be satisfied that the goods do not contain a weapon or disallowed item, based on other considerations, such as the surrounding circumstances of the arrival of the goods at the ship. For example, the goods are transported within a pre-existing and secure scheme known to the screener.

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SCHEDULE 6

THREAT/INCIDENT REPORT  
PORT OR PORT FACILITY

**General information**

Name of Port/Facility: .....

Person providing Report: .....

Date: ..... Time: ..... Location: .....

**Type of occurrence** (e.g. bomb/sabotage threat, unauthorised entry, suspect device, extortion, etc)  
.....

Description of threat/incident

.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....

**Alleged offender(s)**

Name: ..... Nationality: .....

Name: ..... Nationality: .....

Name: ..... Nationality: .....

Name: ..... Nationality: .....

Nature and severity of any injuries sustained by others

Name: ..... link to port: ..... Injury: .....

Name: ..... link to port: ..... Injury: .....

Name: ..... link to port: ..... Injury: .....

Name: ..... link to port: ..... Injury: .....



**Circumstances surrounding device(s) used**

Type of Device(s): .....

.....

Method of introduction (e.g. passenger, baggage, cargo, stores, etc): .....

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.....

Security measures circumvented: .....

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Proposed measures and procedures to prevent recurrence of a similar event?

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Other pertinent details

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Reporting Officer

Signature ..... Name (printed): .....

Designation: ..... Date: .....

*Upon receipt of this report the PSO shall forward a copy to the Department.*

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SCHEDULE 7

THREAT/INCIDENT REPORT  
SHIP

**General information**

Name of Ship: .....

Person providing Report: .....

Date: ..... Time: ..... Location: .....

**Type of occurrence** (eg bomb/sabotage threat, unauthorised entry, passenger incident, suspect device, etc)

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**Description of threat/incident**

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.....

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.....

**Alleged offender(s)**

No. Passengers: ..... No. Crew: ..... Other: .....

Name: ..... Nationality: ..... Embarked: .....

Name: ..... Nationality: ..... Embarked: .....

Name: ..... Nationality: ..... Embarked: .....

Name: ..... Nationality: ..... Embarked: .....

**Nature and severity of any injuries sustained by passengers, crew or others**

Name: ..... Crew/Pass/Other: ..... Injury: .....

Name: ..... Crew/Pass/Other: ..... Injury: .....

Name: ..... Crew/Pass/Other: ..... Injury: .....

Name: ..... Crew/Pass/Other: ..... Injury: .....

**Circumstances surrounding device(s) used**

Type of Device(s): .....

.....

Method of introduction (e.g. passenger, baggage, cargo, stores, etc): .....

.....

.....

Security measures circumvented: .....

.....

.....

**Proposed measures and procedures to prevent recurrence of a similar event?**

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**Reporting Officer**

Signature ..... Name (printed): .....

Designation: ..... Date: .....

*Upon receipt of this report the CSO shall forward a copy to the Department.*

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SCHEDULE 8

Form of a Declaration of Security between a ship and a port facility\*

DECLARATION OF SECURITY

Name of Ship:	
Port of Registry:	
IMO Number:	
Name of Port Facility:	

This Declaration of Security is valid from.....until.....for the following activities

.....

..... (list the activities with relevant details)

under the following security levels

Security level(s) for the ship:	
Security level(s) for the port facility:	

The port facility and ship agree to the following security measures and responsibilities to ensure compliance with the requirements of Part A of the International Code for the Security of Ships and of Port Facilities.

	The affixing of the initials of the SSO or PFSO under these columns indicates that the activity will be done, in accordance with relevant approved plan, by:	
Activity	The port facility	The ship
Ensuring the performance of all security duties		
Monitoring restricted areas to ensure that only authorised personnel have access		
Controlling access to the port facility		
Controlling access to the ship		
Monitoring of the port facility, including berthing areas and areas surrounding the ship		
Monitoring of the ship, including berthing areas and areas surrounding the ship		
Handling of cargo		
Delivery of ship's stores		

\*This form of Declaration of Security is for use between a ship and a port facility. If the Declaration of Security is to cover two ships this model should be appropriately modified.

## INCORPORATED SOCIETIES

### INCORPORATED SOCIETIES REGULATIONS 1938

1938 – 1 April 1938

- 1     These are the Incorporated Societies Regulations 1938.
- 2     [Spent]
- 3     [Spent]
- 4     In these Regulations “Act” means the Incorporated Societies Act 1908.
- 4A    (1) The office of each Assistant Registrar of Incorporated Societies shall be open to the public for the transaction of business daily (except on Saturdays and holidays), during such hours as the Registrar of Incorporated Societies fixes from time to time, either generally or in any particular case.
- (2) In this regulation ‘holiday’ includes –
- (a) Any day falling during the period commencing on 25 December and ending with 2 January;
- (b) Where 2 January falls on a Saturday, the 4th day of January;
- (c) Where 2 January falls on a Sunday, the 3rd and 4th days of January.
- (3) Every day which is a holiday in relation to any instrument or document that is required to be registered with the Assistant Registrar, be deemed to be a holiday within the meaning of section 5 of the Interpretation Act 2004.
- 5     The matters to be recorded in the Register in respect of every society shall be –
- (i) A distinctive registration number;
  - (ii) The name of the society;
  - (iii) The date of registration of the society;
  - (iv) The situation of the registered office of the society for the time being, and the date on which every notice of the situation of that office is given to the Registrar;
  - (v) The date on which any annual statement under section 23 of the Act is delivered to the Registrar, and an indication of the end of the financial year of the society to which the statement relates;
  - (vi) The fact of the dissolution of the society, and the date of any declaration of dissolution made under section 28 of the Act;
  - (vii) Any revocation of a declaration of dissolution, and the date of the entry in the Register;
  - (viii) The nature of any other document relating to the society lawfully lodged with the Registrar under the Act, and the date when it was so lodged.



6 Wherever by the Act attestation by a witness is required, the witness shall after his signature add his calling or description and place of abode.

7 Wherever by the act it is required that the seal of the Registrar be affixed to any document, the Registrar shall verify the sealing by appending his signature and the date on which the seal was so affixed.

8 On payment of the prescribed fee for an application for registration or alteration of rules (as the case may be) the Registrar may peruse any proposed rules or alteration of rules signed by the secretary or other principal officer of the society, although such rules or alteration of rules may not yet have been enacted by the society, but such rules or alteration of rules shall not be registered until duly enacted and verified as required by the Act.

9 A voluntary winding-up of a society shall be deemed to commence at the time of the confirmation pursuant to section 24 of the Act of the resolution for voluntary winding up.

10 Upon confirmation of a resolution for voluntary winding up, the society in general meeting shall appoint one or more liquidators for the purpose of winding up the affairs and distributing the assets of the society, and may fix the remuneration to be paid to him or them.

11 In the application to the voluntary winding-up of a society pursuant to section 24 of the Act of the rules relating to the voluntary winding-up of a company, these rules shall apply as if such winding up were a members' voluntary winding up under the Companies Act.

12 (1) (a) All documents prepared to be registered, or to be delivered, sent, or forwarded to the Registrar must be legibly and clearly written, typewritten, or printed on paper of foolscap size and of medium weight and good quality, with a margin of at least one-fourth of the width of the paper.

(b) Where there are more sheets than one, they must be fastened together with a sufficient paper fastener at the top left-hand corner.

(2) Carbon copies shall not be received by the Registrar.

(3) Except by special leave of the Registrar, granted upon such conditions as he thinks fit, no document shall be received by the Registrar which does not comply with this regulation.

13 (1) There shall be paid to the Registrar, in respect of the matters mentioned in the Schedule, the fees specified.

(2) Where the Registrar or any other officer is empowered by the Act to do any act for which a fee is payable, he may refuse to do that act until the fee is paid.

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SCHEDULE

FEES PAYABLE TO REGISTRAR

	\$
On application for registration	10.00
For alteration of rules	2.00
For registration of new rules in place of registered rules	5.00
For a certified copy of or extract from the register or any Document lodged with the Registrar, for each half sheet of Foolscap or part of such a half sheet	1.00



# LIQUOR

## LIQUOR (BREWERIES) REGULATIONS 1992

1992/2 – 22 September 1992

- 1 Title**  
These are the Liquor (Breweries) Regulations 1993.

### PART 1

#### INTERPRETATION

- 2 Interpretation**  
In these Regulations –  
“beer” includes ale porter, stout and any other description of beer, and any liquor which is made as a description of beer or and which on analysis is found to be of a strength exceeding 2 parts per cent proof spirit;  
“brewery” or “brewery premises” means any premises –  
(a) On which is carried on the manufacture or preparation of beer for sale; or  
(b) On which is carried on the casking or bottling of beer for sale other than retail sale;  
“Inspector” means an Inspector of Health appointed under section 7 of the Public Health Act 1965, and includes a Medical Officer.

### PART 2

#### BREWERY PREMISES AND EQUIPMENT

- 3 Brewery premises**  
(1) (a) All brewery premises shall be well constructed in accordance with law, and kept in good repair.  
(b) As far as may be practicable they shall offer no entrance or harbourage for rodents or insects.  
(2) Without limiting the generality of paragraph (1), all brewery premises shall comply with the requirements set out in the Schedule.
- 4 Brewery ingredients and containers**  
No person shall carry on brewing, except under the following requirements –  
(a) Suitable storage space shall be provided for all ingredients used in the preparation of beer, and those ingredients shall be effectively protected from contamination; and  
(b) No bottle, barrel, jar, vat or other container, used for containing beer, shall be filled with beer unless the container is clean and free from foreign matter; and

- (c) No spent hops or other wastes shall be kept longer than necessary on any premises used for the manufacture of beer; and
- (d) All spent hops and other wastes shall be removed from the premises at regular and frequent intervals; and
- (e) All tasting glasses and other appliances and vessels used for the sampling of beer shall, when not in use, be stored in a dustproof place, and shall be thoroughly cleaned immediately on every occasion after being used.

## 5 Brewery equipment

No person shall carry on a brewery, except under the following requirements –

- (a) All corks, crown seals, wads, and capping devices, that may come into contact with beer when used in closing or sealing any beer container, shall be clean and new and until so used shall be kept in such a manner as to be protected from contamination; and
- (b) All jars, bottles, glasses and other beer containers, shall be effectively cleaned and rendered hygienic before use; and
- (c) All equipment, conveyors, storage casks, and vats shall be situated so as to provide easy access for cleaning and washing down; and
- (d) All movable storage vessels and equipment shall be supported above floor level so as to facilitate cleaning and keeping of the floor free from dampness; and
- (e) All beer hoses shall be made from high grade rubber or from any other non-toxic material, and shall be in a sound condition; and
- (f) No defective beer hose shall be permitted to remain on the premises; and
- (g) All beer hoses shall be cleaned and rendered hygienic at least once each week; and immediately after cleaning all beer hoses shall be drained and shall until they are next used, be kept uncoiled in such a manner that they remain free from liquid and are protected from contamination; and
- (h) All buckets, cans, chutes, valves, fittings, pipes, tubes and other similar appliances, through which beer is passed, shall be made of stainless steel or of any other material approved by an Inspector, and
- (i) All valves, fittings, and pipelines, through which beer is passed, shall –
  - (i) Be cleaned and rendered hygienic at least once each week; and
  - (ii) Until they are next used, be kept in such a manner that they are protected from contamination; and
  - (iii) Be constructed so that they can be easily dismantled for inspection and cleaning; and
- (j) All valves, fittings, and pipelines, through which beer is passed, shall be dismantled for cleaning, except where they are so arranged that cleaning and bactericidal or hot water solutions can be circulated throughout the fixed system to contact all interior surfaces, and that system is self-draining and can be completely evacuated; and
- (k) Every tap or pipe, used for the drawing of beer for sale, shall be constructed in such a manner –

- (i) As to permit the ready cleaning of all internal parts; and
- (ii) As to be properly sealed to prevent leakage; and
- (iii) That the whole of the interior surface is perfectly smooth and free from undulations and irregularities, and is of stainless steel or of any other material approved by an Inspector throughout its length.

#### **6 Water**

Water used for brewing shall be clear and free of impurities, and if necessary, filtered or treated in a manner approved by an Inspector so as to render it clear and free of impurities and fit for wholesome construction.

#### **7 Beer not to be syphoned by mouth**

No person engaged in a brewery in the manufacture, preparation, casking or bottling of beer for sale shall apply to his mouth any syphon tube from a vessel containing beer.

### PART 3 GENERAL PROVISIONS

#### **8 Closure of premises**

(1) Where any brewery premises are, by reason of their situation, construction, disrepair or state, in such a condition that any beer in the premises may be exposed to contamination or taint, to deteriorate or become dirty, an Inspector may serve a notice in writing on the occupier of the premises requiring him –

- (a) To clean, reconstruct, or repair the premises in a manner to be specified in the notice, within a period (not being less than 14 days) to be specified in the notice; or
- (b) To clean, reconstruct, or repair the premises in a manner to be specified in the notice, and to cease to use the premises as brewery premises until the cleaning, reconstruction or repair has been completed to the satisfaction of an Inspector; or
- (c) To cease to use the premises as brewery premises, and not to subsequently resume the use of the premises as brewery premises.

(2) Any notice served under paragraph (1) may be revoked at any time by an Inspector. The occupier of the premises to which the notice related shall forthwith be notified in writing of the revocation.

(3) The fact that a notice has been served under paragraph (1) shall not prevent the service of another notice under any paragraph of that subclause in respect of the same premises.

(4) A notice under paragraph (1) shall have effect notwithstanding that the time for filing an appeal under regulation 10 in respect of the notice has not expired, or that such an appeal has been filed but has not been determined, unless an Inspector suspends the operation of the notice until the time for filing such an appeal has expired or until any appeal so filed has been determined.

(5) It shall be sufficient compliance with a notice under paragraph (1) requiring the occupier of food premises to clean, reconstruct, or repair any premises, if the occupier ceases to use the premises as brewery premises and does not subsequently resume the use of the premises as brewery premises.

#### **9 Other enactments**

Nothing in these Regulations shall derogate from the provisions of any other enactment and in particular (without limiting the generality of the foregoing), the Public Health Act 1965, and the Food Control Act 1981.

PART 4  
APPEALS AND OFFENCES

**10 Appeals to Court**

(1) Any person who is operating a brewery and who is dissatisfied with the requirements of a notice served by an Inspector pursuant to regulation 8 may, within 21 days of the service of the notice, appeal to the Court against the requirements of that notice, specifying the grounds of the appeal.

(2) The Court may confirm vary or annul the requirements of the notice appealed against.

**11 Offences and penalties**

(1) Every person who fails to comply with any provision of these Regulations commits an offence and on conviction shall be liable to a fine not exceeding 5 penalty units, and in the case of a continuing offence, to a further fine of 0.5 penalty units for every day on which the offence is continued.

(2) Where any body corporate is guilty of an offence under these Regulations, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other officer of the body corporate, or any person who was purporting to act in any such capacity, that person, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against accordingly.

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SCHEDULE  
(Regulation 3)

**1 Floors**

- (a) Floors shall be constructed of impervious and easily cleaned material that is resistant to wear and corrosion, and shall be adequately graded and drained.
- (b) The materials of which the floors are constructed shall in any event be suited to the work or process carried out on the premises.

**2 Walls**

- (a) The internal surface of the walls shall be constructed of dust-proof materials, and shall be smooth, even, and non-absorbent, and shall be able to be readily cleaned without damage to the surface.
- (b) The internal surface of the walls shall be either painted or treated with such other finish as an Inspector may approve.
- (c) All windows shall be fitted with insect screens, and suitable means of destroying insects within the premises shall be employed.

**3 Ceilings**

Every ceiling or, where no ceiling is provided, the undersurface of the roof, and every support shall be of such construction and finish as to –

- (i) Provide a smooth, even surface that is dust-proof; and
- (ii) Permit efficient and thorough cleaning.

**4 Lighting**

The illumination provided in the premises shall be of sufficient intensity to enable effective inspection and cleaning of the premises, and to enable the purposes for which the premises are used to be satisfactorily carried out.



**5 Ventilation**

- (a) The premises shall be provided with such ventilation as is necessary to maintain comfortable conditions for persons in the premises.
- (b) As far as practicable, the ventilation shall be adequate –
  - (i) To prevent the air on the premises from become excessively heated; and
  - (ii) To prevent condensation and the formation of excess moisture on the floors, walls and ceilings; and
  - (iii) For the removal of objectional odours, fumes, and impurities from the premises.
- (c) If the premises do not have adequate natural ventilation for the purposes of sub-paragraph (a) and (b), they shall be provided with a mechanical ventilation system that obtained air flow from a clean area.
- (d) Where the premises are provided with a mechanical ventilation system, it shall discharge air (including any vapours, gases, and other products produced during any brewing process) in a manner that does not create a nuisance.

**6 Space**

- (a) The premises shall contain sufficient floor space –
  - (i) To enable every person working there to carry out his work efficiently; and
  - (ii) To allow easy access for cleaning purposes.
- (b) Every working space, aisle, passageway, or area on the premises, to which it is intended that customers shall have access, shall be unobstructed and shall be sufficiently spacious to allow movement by workers and invitees.

**7 Toilet accommodation**

- (a) The premises shall be provided with sufficient toilet accommodation, in accordance with the Public Health Act 1965 for the workers on the premises.
- (b) All toilet accommodation shall be convenient to the places where the workers for whom it is provided are engaged in their work.

**8 Wash-hand basins**

The premises shall be provided with wash-hand basins for the use of the workers engaged there.

**9 Water supply**

The premises shall be provided with an adequate supply of clear, wholesome water.

**10 Hot water supply**

The premises shall be provided with a hot water system having a storage capacity approved by an Inspector to supply, during the time in every day when the premises are used, an adequate and continuous supply of piped hot water –

- (a) At a temperature of not less than 63 degrees celsius at all sinks and other equipment that are used for the washing of containers, utensils and appliances; and
- (b) At a temperature of not less than 83 degrees celsius for every other purpose for which hot water is required under these regulations.

**11 Plumbing**

The premises shall be provided to the satisfaction of an Inspector with sinks, sanitary fixtures and accessories, or other plant or appliances, that are of sufficient capacity to enable all appliances, containers, utensils and equipment used in the premises to be cleaned efficiently and rendered hygienic in accordance with the requirements of these regulations.

**12 Sewage disposal**

The premises shall be provided with sufficient suitable drains to carry away the whole of the sewage and liquid wastes from the premises to a sewer, sewage tank or other outfall, in accordance with the Public Health Act 1965.

## MISUSE OF DRUGS

[EDITORIAL NOTE: The Misuse of Drugs law is the subject of a current reform Bill. The Regulations are therefore not reproduced.

The Regulations can be found in *Niue Legislation as at 1 August 1990* vol 4 p444.]



## NIUE

[EDITORIAL NOTE: The Marine Pollution Act 1974 (NZ) as at 19 October 1974 is Niue law. The Oil in Navigable Waters Act 1965 (NZ) was made Niue law by the Niue (New Zealand) Laws Regulations 1972. The Marine Pollution Act 1974 (NZ) repealed the Oil in Navigable Waters Act 1965 (NZ) and thereby (except sections 37-39 and Part 5) became Niue law by substitution by virtue of section 676 of the Niue Act 1966. There are three Oil in Navigable Waters regulations subsisting under this Act. The Act and its regulations are not reproduced in this volume; they can be found in *Niue Legislation as at 1 August 1990* vol 4.]

### AUDIT REGULATIONS 1970

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**1 Title**  
These are the Audit Regulations 1970.

**2 Interpretation**  
In these Regulations –

“accounting officer” means an imprestee, receiver, or other person who is required to render an account under any enactment or appointment; and includes every person who, by any enactment or by virtue of any appointment, is charged with the duty of collecting or receiving, or who does actually collect or receive, any public money, or who is charged with the duty of disbursing, or who does actually disburse, any public money, or who is charged with the purchase, receipt, custody, or disposal of or the accounting for any public stores;

“Act” means the Niue Act 1966;

“Audit Office” means the Auditor-General;

“Auditor-General” means the Auditor-General of New Zealand;

“imprestee” means any person in whose hands any public money is placed for expenditure in the public service;

“local authority” means any Council, Board, Trustees, Commissioners, or other persons, by whatever name designated, entrusted by or under authority of any enactment with the administration of the affairs of any municipality, district, or village and having power to levy rates or taxes or to impose fines or penalties;

“public money” means money, or securities of any kind for the payment of money, received for or on account of, or payable to, or belonging to, or deposited with, the Crown or the Government or any Department or agency of the Government; and includes public securities;

“public securities” means securities representing the investment of any public money;

“public stores” or “stores” means chattels, machinery, livestock, or buildings in the possession or under the control of any Department or agency on account of the Government;

“statutory authority” means any Council, Board, Trustees, Commissioners, or any other persons, by whatever name designated, entrusted with the administration of any scheme, trust, fund or other undertaking of a public nature established by or under the authority of any enactment.

### **3 Inspection and audit**

(1) The Audit Office shall inspect, examine, and audit the books and accounts of every accounting officer and of every other person concerned in the accounting, collection, receipt, custody, or expenditure of public money or stores.

(2) The Audit Office shall have free access at all convenient times to the accounts and records relating to any public money or stores and to the offices or premises in which any such accounts or records are located; and it shall be the duty of all persons whomsoever to afford all such information as the Audit Office at any time requires, and to answer all such questions as may be addressed to them or any of them by the Audit Office touching any public money or stores, or any account thereof, or any other matter which may enable the Audit Office to fulfil the duties imposed on it by these regulations.

(3) The Audit Office may cause search to be made in and extracts taken from any book, document, or record in any public office without paying any fee therefor.

(4) The Audit Office shall make such examination, reviews and tests as it considers necessary of the accounts and transactions relating to any public money and stores to ascertain whether, in the opinion of the Audit Office –

- (a) The accounts have been faithfully and properly kept;
- (b) Internal controls and procedures applied are sufficient to ensure that all money is accounted for and to secure an effective check on the assessment, collection, and proper allocation of revenue;
- (c) Internal controls and procedures applied are sufficient to secure an effective control over expenditure, and to ensure that expenditure has been properly authorised and charged against the proper appropriation provided by the Assembly;
- (d) Internal controls and procedures applied are adequate for proper custody and control of stores and for the maintenance of essential stores records.

(5) The provisions of this regulation shall, with the necessary modification, apply to all accounts and transactions in respect of money or stores required to be audited by the Audit Office under any enactment.

#### **4 Inspectors**

The Auditor-General may, by writing under his hand, appoint any officer of the Audit Department or other fit person to inspect, examine, or audit any books, accounts, or stores, which are required to be inspected, examined, or audited by these Regulations or by any other enactment and to report thereon to him; and for the purposes of any such inspection and report any such officer or other person shall have power to inspect all books, accounts, vouchers, and other papers relating thereto.

#### **5 Audit Office may report to Minister**

(1) The Audit Office may communicate with the Minister or any other person whomsoever upon any account or transaction subject to audit by the Audit Office under these regulations or any other enactment.

(2) The Audit Office may report to the Minister the name of any person failing to comply with the requirements of these Regulations, or of any other enactment relating to public money or public stores, and thereupon, and until the failure is made good to the satisfaction of the Minister, all salaries and money that may be or become due to that person may be withheld.

#### **6 Auditor-General's precept**

(1) The Auditor-General may, by precept under his hand, require any such person as he thinks fit to appear personally before him or any officer of the Audit Department at a time and place to be named in the precept, and to produce any accounts, vouchers, books, or papers in the possession or control of that person.

(2) The Auditor-General or officer of the Audit Department shall have full power to examine any such person on oath touching the receipt, expenditure of or otherwise dealing with any public money or stores, and touching all other matters necessary for the due execution of the powers vested in the Audit Office by these regulations.

(3) Every person who is compelled under this regulation to attend before the Audit Office shall be entitled to be paid from the Niue Government Account such expenses as the Audit Office certifies to be reasonable.

#### **7 Surcharges**

(1) If it appears to the Audit Office that in any account or transaction subject to its audit there has been any deficiency or loss, or that any money has not been fully and properly accounted for, by reason of the fact that –

- (a) Any accounting officer or other person has wilfully or negligently omitted to collect, receive, or account for any money; or
- (b) Any money has been applied and charged to any service or purpose for which it was not legally available and applicable; or
- (c) Any payment has been made without proper authority or has not been duly vouched; or
- (d) There has been a deficiency or loss of money or stores, or expenditure of money, or damage to stores, or expenditure for the replacement or repair of stores, caused through the fraud, mistake, default, negligence, or error of, or improper or unauthorised use by, any person; or
- (e) Any material error has been committed; or
- (f) Any of the provisions of these Regulations, or of any other enactment relating to public money or public stores, have not been complied with –



the Auditor-General may call on the person who appears to him to be in default or responsible to show cause why he should not be surcharged with the amount of the deficiency or loss, notifying that person in writing of the proposed surcharge and of the time within which he is required to state why he should not be surcharged.

(2) In any case in which the amount of any deficiency or loss cannot be accurately determined, the Auditor-General shall make an estimate of the deficiency or loss, and that estimate shall for all purposes be deemed to be correct.

(3) On receipt of any explanation submitted by any person who has been called on to show cause why he should not be surcharged, or in default of any such explanation, the Auditor-General shall, if he considers the circumstances warrant it, issue a surcharge for the amount concerned. The person surcharged shall be notified by the Auditor-General of the time within which the surcharge must be satisfied.

(4) Any surcharge unsatisfied within the time so allowed shall be reported by the Auditor-General to the Minister, to be by him enforced against the person surcharged.

(5) The Auditor-General may at any time revoke any surcharge made by him under this regulation if he considers it to have been made in error.

(6) Nothing in this regulation shall prevent the recovery without surcharge, from any person liable to be surcharged, of the amount of the deficiency or loss, or of so much thereof as the Auditor-General thinks fit, as a debt due to the Crown.

(7) If any person having possession or control of any public money or stores applies the same, or causes or permits the same or any part thereof to be applied, to other than public services, or is a defaulter in respect of any such money or stores, the Audit Office shall forthwith take all such steps as it thinks fit to prosecute the offender according to law, but nothing herein shall prevent the prosecution of that person by any person other than the Audit Office.

## **8 Recovery of surcharges**

(1) (a) The Minister, on receiving the Audit Office report of an unsatisfied surcharge, may direct Cabinet to take such steps to recover the amount as the case may require. No amount payable to or claimed by that person shall be paid until the surcharge has been satisfied, and the amount of the surcharge shall be recoverable from that person as a debt due to the Crown;

(b) Payment of not more than one-fifth of the net salary for any pay period of any officer surcharged shall be withheld under this regulation.

(2) All money recovered under this regulation shall be paid into the account which suffered the deficiency or loss in respect of which the surcharge was issued.

## **9 Appeal as to surcharges**

Any person who has been surcharged and who is dissatisfied with that surcharge may within one month after the date of the service on him of notice of the surcharge appeal to the Minister, who, after making such investigation as he deems equitable, may make such order as he thinks fit either confirming the surcharge or directing the relief of the appellant therefrom either wholly or in part, whereupon the amount of the surcharge which has not been remitted shall become due and payable and subject to regulation 8.

**10 Passing of payments without receipts**

Cabinet on satisfactory evidence being provided that the receipts or other requisite papers have been lost or destroyed or that it is not possible to obtain or replace them, may order that any payment of public money be allowed as paid without production of receipts, and the Audit Office may after making such inquiries as it considers desirable pass the payment accordingly.

**11 Powers of Audit Office as to payment of royalties**

The Audit Office may inspect and examine the books and accounts of any person who is for the time being liable for the payment to the Crown of any royalties under any lease or licence.

**12 Cabinet or Audit Office may investigate accounts in connection with Government contracts**

(1) For the purposes of this regulation the term "Government contract" means any contract for the supply of any goods or the execution of any works in consideration of any payment out of public money, and includes any subcontract made in relation to any such contract.

(2) This regulation shall apply with respect to any Government contract whether or not the contract has been wholly or partly performed and executed.

(3) For the purpose of obtaining any information in relation to any Government contract, Cabinet or the Auditor-General may –

- (a) Inspect, examine, and audit any books, accounts, vouchers, records, or documents;
- (b) Require any person to produce any books, accounts, vouchers, records, or documents in his possession or under his control, and to allow copies of or extracts from any such books, accounts, vouchers, records, or documents to be made;
- (c) Require any person to furnish in a form to be approved by or acceptable to the Auditor-General, any information or particulars that may be required by him;
- (d) Inspect, measure, and test any real or personal property;
- (e) Enter any land, building or place.

(4) Cabinet or the Auditor-General may delegate to any person or class of persons, or to the holder or holders of any office or class of offices, any of the powers conferred by this regulation. Any such delegation may be at any time revoked.

(5) Every person commits an offence against this regulation who –

- (a) Resists, obstructs, deceives, or attempts to deceive any person who is exercising or attempting to exercise any power or function under this regulation;
- (b) Makes any false or misleading statement or any material omission in any information or particulars furnished under this regulation;
- (c) Fails to comply in any respect with any requirement under this regulation.

(6) Every person who aids, abets, counsels, or procures, or is in any way knowingly concerned with, the commission of an offence against this regulation shall be deemed to have committed an offence against this regulation.

(7) Any offence against this regulation committed by a servant or agent in the course of his employment shall be deemed to have been also committed by his employer or principal.

(8) Every person who commits or attempts to commit an offence against this regulation is liable –

- (a) In the case of an individual, to imprisonment for a term not exceeding 3 months or to a fine not exceeding 1 penalty unit and (if the offence is a continuing one) to a further fine not exceeding 0.5 penalty units for every day during which the offence has continued, or to both such imprisonment and such fines;
- (b) In the case of a company or other corporation, to a fine not exceeding 10 penalty units and (if the offence is a continuing one) to a further fine not exceeding 0.5 penalty units for every day during which the offence has continued.

### **13 Statutory and local authorities**

The functions and powers of the Audit Office under these Regulations shall extend to the inspection, examination, and audit of the accounts of every statutory authority and every local authority in Niue created, incorporated, or established by any enactment.

### **14 Audit fees and costs**

(1) The cost of the audit of its accounts, public money, and public stores shall be borne by the Government of Niue.

(2) Where the Audit Office is appointed auditor of any body or of any accounts or transactions, whether under these regulations or any other enactment or otherwise howsoever, fees shall be payable to the Audit Office in respect of the audit at such a rate as the Minister of Finance fixes.

(3) In addition to the aforesaid fees and costs, the Audit Office shall be reimbursed for all travelling expenses and other disbursements in connection with its duties as prescribed by these regulations.

(4) The amount payable to the Audit Office in respect of any such fees, costs, expenses, or disbursements shall be a debt due to the Crown, and shall be recoverable in any court.

### **15 Report of Audit Office**

Cabinet shall on receipt of the report of the Audit Office submitted under the Constitution, present the report and the statements of accounts or funds which have been audited by the Audit Office together with reports thereon to the Assembly forthwith if then meeting, and if not, then at the first sitting of the next meeting.

### **16 Offences and penalties**

(1) Every person who refuses or neglects to pay any public money into the account into which that money is payable is liable to a fine not exceeding 2 penalty units.

(2) Every person who refuses or neglects to make any return or furnish any account, vouchers, or other papers which he is required to make or furnish under these Regulations, not being an offence under regulation 12 is liable to a fine not exceeding 0.5 penalty units.

(3) Every person commits an offence and is liable to a fine not exceeding 2 penalty units, who –

- (a) Fails to attend at the time and place required of him by the Auditor-General or any other person under these Regulations for the purpose of being examined; or

- (b) Fails to produce any accounts, books, vouchers, or papers in his possession or under his control which he is required to produce; or
- (c) Refuses to be sworn or to answer any lawful question asked him by the Cabinet or other person authorised to act in his behalf or by the Audit Office –

not being an offence under regulation 12.

(4) Every person who is guilty of any wilful act of commission or omission contrary to any of these Regulations for which no penalty is expressly provided is liable to a fine not exceeding 1 penalty unit.

(5) All proceedings for an offence against these Regulations shall be commenced upon the information of any person appointed by Cabinet in that behalf, either generally or in any particular case.

## BIRTHS AND DEATHS REGISTRATION REGULATIONS 1984

1984 – 1 July 1984

<p>1 Title</p> <p>2 Interpretation</p> <p style="text-align: center;">PART 1 REGISTRATION GENERALLY</p> <p>3 Appointment of Registrar</p> <p>4 Place of registration of births and deaths</p> <p style="text-align: center;">PART 2 REGISTRATION OF BIRTHS</p> <p>5 Form of Register of Births</p> <p>6 Particulars required for registration</p> <p>7 Persons responsible for reporting births</p> <p>8 Notification form</p> <p>9 Entry in the Register of Births</p> <p>10 Certificate of registration</p> <p>11 Births not previously registered</p> <p>12 Births occurring outside Niue</p> <p>13 Change of name</p> <p>14 Informant may sign Register of Births</p> <p>15 Entry of father's name</p> <p>16 Notice to attend on Registrar</p> <p>17 Legitimated children</p> <p>18 Late registration</p>	<p style="text-align: center;">PART 3 REGISTRATION OF DEATHS</p> <p>19 Form of Register of Deaths</p> <p>20 Particulars of deaths</p> <p>21 Persons responsible for reporting deaths</p> <p>22 Entry in Register of Deaths</p> <p>23 Informant may sign Register of Deaths</p> <p>24 Certificate by medical practitioner</p> <p>25 Deaths not attended</p> <p>26 Failure by medical practitioner to give certificate</p> <p>27 Notice by Minister of religion</p> <p style="text-align: center;">PART 4 GENERAL PROVISIONS</p> <p>28 Registers open to public</p> <p>29 Issue of certified copy for official use</p> <p>30 Evidence of entries</p> <p>31 Failure to supply required particulars</p> <p>32 Fees</p> <p>33 Custody of Registers</p> <p>34 Correction of errors</p> <p>35 Regulations to apply to stillborn child</p> <p>36 Failure of Registrar to register information</p> <p>37 Discretion of Registrar</p>
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### SCHEDULES

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- 1 Title**  
These are the Births and Deaths Registration Regulations 1984.
- 2 Interpretation**  
In these Regulations –  
“informant” means any person required by these Regulations to furnish to the Registrar particulars of a birth or death, as the case may be;  
“register” means the Register of Births or the Register of Deaths, as the case may be;  
“Registrar” means the Registrar appointed under these Regulations and includes a Deputy Registrar so appointed.

#### PART 1 REGISTRATION GENERALLY

- 3 Appointment of Registrar**  
There shall be appointed under Part VI of the Constitution such fit and proper persons as may be required to be Registrar and Deputy Registrar.
- 4 Place of registration of births and deaths**  
All births and deaths occurring in Niue shall be registered by the Registrar whose office is in Alofi.

PART 2  
REGISTRATION OF BIRTHS

**5 Form of Register of Births**

The Register of Births shall be in form 1 in Schedule 1.

**6 Particulars required for registration**

(1) For the purpose of these Regulations, the following particulars of a birth occurring in Niue shall be furnished to the Registrar –

- (a) The date and place of birth;
- (b) The christian or first name and sex of the child;
- (c) The names of the father and mother respectively; when and where married, ages, place of birth, place of residence and occupations;
- (d) The description of the father and mother (race to be stated in full) [For example, Europeans, Niuean, half-European, half-Niuean];
- (e) The name, address, occupation and relationship of the informant to the child;
- (f) The date of registration.

(2) The particulars of births specified in paragraph (1) shall be furnished to the Registrar within 14 days after the birth of the child.

**7 Persons responsible for reporting births**

(1) The following persons shall be responsible for furnishing to the Registrar particulars of births specified in regulation 6, namely –

- (a) In the case of a birth occurring in the public hospital, the midwife, nursing sister or nurse-in-charge at the time of birth;
- (b) In the case of a birth occurring outside of hospital, the father or mother of the child;
- (c) Every occupier of the house or building in which the child was born;
- (d) Any person present at the birth of the child.

(2) If any of the persons specified in paragraph (1) duly furnishes the required information, the others of those persons shall thereupon be freed from the obligation of doing so.

**8 Notification form**

The notification form shall be in form 2 in Schedule 1.

**9 Entry in Register of Births**

(1) Upon receipt of the particulars of birth of any child born in Niue the Registrar shall enter those particulars in the Register of Births.

(2) The Registrar may, notwithstanding that the full particulars required by these Regulations have not been furnished, upon being satisfied with the particulars furnished to him, register the birth of any child in the Register of Births.

**10 Certificate of registration**

The certificate of registration shall be in form 3 in Schedule 1.

**11 Births not previously registered**

Notwithstanding anything in these Regulations, the Registrar may register the birth of any person born in Niue, whether before or after the commencing of these Regulations, whose birth has not been previously registered.



**12 Births occurring outside Niue**

(1) Where a child born out of Niue arrives and before attaining the age of 24 months, and the parents or other persons having lawful charge of the child are ordinarily resident in or about to take up their abode in Niue, a Registrar, on application being made at any time within six months from the date of the child's arrival by one of the parents, or by a person having lawful charge, shall register the birth of the child in the manner provided by these Regulations for the registration of births taken place in Niue.

(2) Documentary evidence as to the date of birth of the child must be submitted together with the application for the registration of such a birth.

(3) The Registrar shall not refuse the application of any person for registration of the birth of the child born out of Niue on the ground of the non-production of documentary evidence alone.

**13 Change of name**

(1) Any person whose birth is registered in Niue, and who has attained the age of 21 years or is married or has at any time been married, may change his or her name, whether as to his/her surname or as to any first name or christian name.

(2) (a) The parents of any child who has not attained the age of 21 years and has never been married may change the name of the child, whether as to his/her surname or as to any first or christian name.

(b) Where the child has attained the age of 18 years his/her consent shall be required to the change of name.

(c) For the purposes of this paragraph the term "parents" –

(i) Where one of the parents has deserted the child or is dead or unknown or missing or of unsound mind, means the other parent;

(ii) Where the child has been adopted, according to the law in force for the time being, means the adoptive parents or one of them;

(iii) Where the child has a legal guardian, means or includes that guardian.

(3) (a) For the purpose of this Regulation, any change of name shall be effected by Deed Poll in form 4.

(b) Any application at any time for the change of name shall be restricted in all respects to not more than 2 applications except in special circumstances and subject to the discretion of the Registrar whose decision shall be final.

(4) Any change of name shall be registered at the Registrar's Office and the original registration amended accordingly subject always to the payment of the prescribed fee set out in Schedule 2 except where fees are being waived by the Registrar in case of hardship or other valid reasons.

(5) Every certificate of the date of birth issue under this clause shall show the name as changed and no other name and reference to the original name or names for identification purposes.

**14 Informant may sign Register of Births**

Upon completing all the entries in the Register of Births, the Registrar shall request the informant, if then present, to sign the entries but this condition is obligatory rather than compulsory.



**15 Entry of father's name**

Unless the informant states that the child is born in lawful wedlock or is the posthumous child of lawfully married persons or unless the father together with the mother attends personally at the Registrar's Office and make admission that he is the father of the child and the mother agrees to the father's name being entered in the Register of Births, or unless an affiliation order has been made under Part 23 of the Niue Act 1966 in respect of the child, the Registrar shall not enter in the Register of Births the name of any person as the father of the child.

**16 Notice to attend on Registrar**

Notwithstanding that the birth of any child has not been registered within the period specified in regulation 5(2), the Registrar may after one month and not later than 6 months after the birth of the child, by notice in writing (form 5) requires the parent or parents or some person present at the birth of the child to attend personally at his office within the time specified in the notice and give information of the particulars required to be registered, and the Registrar shall thereupon register the birth according to the information given.

**17 Legitimated children**

- (1) (a) Upon the intermarriage of parents of an illegitimate child born in Niue and upon application being made to the Registrar in whose office the birth of the child is registered, the Registrar may register the particulars of the father.
- (b) Satisfactory evidence by statutory declaration or other such evidence he may deem necessary of the paternity of that child shall have been first given to the Registrar.
- (2) Notwithstanding anything in paragraph (1) every case where it is not practical for the natural parents to attend personally at the office of the Registrar in whose office the birth was registered the application be made in writing with support documentary evidence to the Registrar who may authorise the registration of the particulars relating to the father.

**18 Late registration**

Notwithstanding the time restriction imposed by regulation 12 the Registrar may authorise the registration of any birth which occurred out of Niue provided that satisfactory evidence by statutory declaration or other evidence may be deemed necessary as to the birth of the child irrespective as to whether or not the birth of the child has been registered at the country where it originally occurred or took place.

PART 3  
REGISTRATION OF DEATHS

**19 Form of Register of Deaths**

The Register of Deaths shall be in form 6.

**20 Particulars of deaths**

- (1) For the purpose of these Regulations, the following particulars of deaths occurring in Niue shall be furnished to the Registrar –
  - (a) The date and place of death;
  - (b) The name and residence of the deceased;
  - (c) The sex of the deceased;
  - (d) The age of the deceased;

- (e) If married, the name of the deceased's husband or wife;
- (f) The number and sex of children living (if any);
- (g) The cause of death certified by a medical officer who attended the deceased during last illness;
- (h) The duration of illness of the deceased (if known);
- (i) The name of medical practitioner giving the certificate and brief description of qualifications;
- (j) The date when medical practitioner last saw the deceased;
- (k) The names and descriptions of the father and mother of the deceased (race to be stated in detail). For example, European, Niuean, half European, and half Niuean and their place of residence;
- (l) The name, description, place or residence, occupation and degree of relationship of informant (if any) to the deceased;
- (m) The date of registration.

(2) The particulars of deaths specified in paragraph (1) shall be furnished to the Registrar within 24 hours after death occurred.

## **21 Persons responsible for reporting deaths**

(1) The following persons or officer shall be responsible for furnishing the particulars of deaths specified in regulation 20, namely –

- (a) The medical practitioner by issuing a death certificate duly executed under his hand;
- (b) Every occupier of the house or building in which the death took place;
- (c) Any person present at the death.

(2) If any of the persons or medical officer specified herein duly furnishes the required information, the others of those persons or officers shall thereupon be freed from the obligation of doing so.

## **22 Entry in Register of Deaths**

(1) Upon the receipt of the particulars of death of any person dying in Niue, the Registrar shall enter those particulars in the Register of Deaths.

(2) Notwithstanding that the full particulars required by these Regulations have not been furnished, the Registrar, upon being satisfied with the particulars furnished to him, may register the death of any person in the Register of Deaths.

## **23 Informant may sign Register of Deaths**

Upon completing the entries in the Register of Deaths, the Registrar shall request the informant, if then present, to sign the entries, but the informant shall not be obliged to sign the entries.

## **24 Certificate by medical practitioner**

(1) On the death of any person who has been attended during his/her last illness by a medical practitioner, that medical practitioner shall sign and deliver or cause to be delivered to the Registrar a certificate in form 7 in Schedule 1 stating to the best of his knowledge and belief the causes of death (both primary and secondary) and the duration of the last illness of the deceased.

(2) The particulars set forth in the said certificate shall be entered, together with the name of the certifying medical practitioner in the Register of Deaths.

**25 Deaths not attended**

(1) On the death of any person in Niue where there is for the time being a Director of Health and that person has not been attended by a medical practitioner as aforesaid, the Director of Health or his deputy, as the case may be, or other medical practitioner authorised by him in that behalf, shall sign and deliver, or cause to be delivered, to the Registrar a certificate in form 8 in Schedule 1, stating to the best of his knowledge and belief the cause of death (both primary and secondary) of the deceased.

(2) (a) For the purpose of enabling him to issue such a certificate, the Director of Health, and in his absence the Deputy Director of Health, shall have the right to make such examination or who without reasonable cause obstructs or interferes with the Director of Health or his deputy, in conducting such an examination, is liable to a fine not exceeding 1 penalty unit.

(b) If any relative of the deceased objects to such an examination being made, the Director of Health or the deputy acting on his behalf, may appeal to Cabinet whose decision shall be final.

(3) (a) On the receipt by the Registrar of a medical certificate under the provision of this regulation, the Registrar shall issue to such person as he deems entitled thereto an authority for the burial of the deceased.

(b) Every such authority under his hand shall be in form 9 in Schedule 1.

(4) Where in any case to which paragraph (3) applies any person, without an authority in form 9 being first obtained, bury or causes to be buried any person who has died in Niue, he is liable to a fine not exceeding 1 penalty unit.

**26 Failure by medical practitioner to give certificate**

Every medical practitioner required under regulations 24 and 25 to issue a certificate in form 7 or form 8 in Schedule 1 concerning any death refuses or neglects to give that certificate, and any person to whom any such certificate is given who fails to deliver the certificate to the Registrar is liable to a fine not exceeding 0.5 penalty units.

**27 Notice by Minister of religion**

Every Minister of religion or other person who performs any religious or funeral service for or at the burial of any dead body, or the person who conducts the burial of any dead body shall give or forward within 7 days written notice of the burial in form 10 in Schedule 1 to the Registrar.

**PART 4****GENERAL PROVISIONS****28 Registers open to public**

(1) The Registers to be kept under these Regulations shall at all reasonable times be open to the public for search on payment of the appropriate fee prescribed in Schedule 2.

(2) The Registrar shall, on the application of any person and on payment of the appropriate fee prescribed in Schedule 2, issue certificates of any entry made in the said Registers.

(3) Notwithstanding this regulation, the Registrar may dispense with the payment of any fee payable under these Regulations in cases of genuine hardship.

**29 Issue of certified copies for official use**

(1) Notwithstanding regulation 32, where a certified copy of any entry in a Register kept under these Regulations or a certificate as to any entry is required for the purposes of any Government Department, the Registrar shall issue the certified copy or special certificate in the prescribed form, free of charge.

(2) Every certified copy or certificate issued under paragraph (1) shall indicate the purpose for which it was issued and shall not be available for any other purpose, and shall be retained by the Department for whose purposes it was required.

**30 Evidence of entries**

A certified copy of or a certificate relating to any entry in a Register, made or given and purporting to be issued and signed by the Registrar and sealed and stamped with his seal, shall be received in any court as prima facie evidence of the birth or death to which it relates.

**31 Failure to supply required particulars**

(1) Every person required by these Regulations to furnish particulars in respect of any matter who, without sufficient cause, fails to furnish those particulars is liable for a first offence to a fine not exceeding 0.5 penalty units and for a second or any subsequent offence to a fine not exceeding 0.5 penalty units and any person who wilfully furnishes false particulars is liable to a fine not exceeding 1 penalty unit.

(2) Where any person who is convicted under these Regulations for failure to furnish the particulars required for the registration of any birth or death, the court shall direct the Registrar forthwith to register the birth or death, and if the birth or death has not been previously registered the Registrar shall register the birth or death accordingly.

**32 Fees**

For the purposes of these Regulations, the fees specified in Schedule 2 shall be payable to the Registrar as the case may require.

**33 Custody of Registers**

(1) The Registers shall be safely kept by the Registrar in whose custody they are placed, and shall be deemed to be the property of the Crown.

(2) Upon the death, dismissal, transfer or resignation of the Registrar, the custody of those Registers shall pass to his successor in office.

**34 Correction of errors**

(1) Any clerical error or any error of fact or substance or any omission of any material fact in any Register may be corrected by the Registrar as the case may require.

(2) (a) Instead of making any correction as aforesaid, the Registrar may, if he thinks fit, direct a new entry to be made in the Register.

(b) Any such entry shall contain a reference to the original entry, and the original entry shall contain a reference to the new entry together with the date of the correction.

(c) Any such new entry shall be signed by a person who is required under these Regulations to give the particulars of birth or death, as the case may be, or by such other persons as may be authorised by the Registrar.

(3) For the purpose of this regulation, the Registrar may require to be produced a statutory declaration and such other evidence as to the facts as he considers necessary.

(4) Except as otherwise provided in these Regulations, no alteration in any Register shall be made.

**35 Regulations to apply to stillborn child**

- (1) (a) The provisions of these Regulations relating to the registration of births shall apply in the case of a stillborn child, but a Registrar may dispense with the registration of the death of any such child.
- (b) A stillborn child shall be a child that has issued from its mother after the expiration of the 28 weeks of pregnancy and was not alive at the time of such issue.
- (2) Particulars required for registration of a stillborn child shall be entered on a separate Register kept specially for that purpose.

**36 Failure of Registrar to register information**

Where –

- (a) The Registrar refuses or without reasonable cause omits to register any birth or any death of which he had due notice and information; or
- (b) Any person having the custody of any Register or certified copy thereof, or any part thereof, negligently loses or injures the same, or negligently allows the same to be injured while in his keeping –
- he is liable to a fine not exceeding 1 penalty unit.

**37 Discretion of Registrar**

Where for any sufficient cause shown to the satisfaction of the Registrar any act, matter, or thing required by these Regulations cannot be done within the time limited by or in strict compliance with the conditions imposed by these Regulations, it shall be sufficient if that act, matter, or thing is done within a reasonable time thereafter, or if the conditions imposed are complied with so far as is reasonably possible.

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## SCHEDULES

## SCHEDULE 1

Reg 5

Form 1

No.

NIUE  
REGISTRATION OF BIRTH

Child	Particulars
1 Date of Birth:	
2 Place of Birth:	
3 Christian and Surname:	
4 Sex:	
Parents	
5 When Married:	
6 Where Married:	
Father	
7 Name and Surname:	
8 Age and Race:	
9 Place of Birth and Residence:	
10 Occupation:	
Mother	
11 Name and Surname:	
12 Age and Race:	
13 Place of Birth and Residence:	
14 Occupation	
Informant	
15 Signature:	
16 Residence:	
17 Occupation:	
18 Relationship to Child:	
19 Date of Registration:	
20 Signature of Registrar:	

I certify that the above particulars are a true record of the birth of  
recorded this                      day of                      20

Caution – Any person who (1) falsifies any of the particulars on this certificate; or (2) uses it as true knowing it to be false, is liable to prosecution under the Births and Deaths Registration Regulations 1984.

\_\_\_\_\_

## Form 2

Issue No. 001

## BIRTHS REGISTRATION REGULATIONS 1984

(Reg 8)

## NOTIFICATION FORM

(To be delivered or posted to the Registrar of Births within 14 days after the birth)

## The Registration of Births

Alofi, Niue

A TAKE NOTICE that a female/male child was born at Lord Liverpool Hospital  
on \_\_\_\_\_/\_\_\_\_\_/20\_\_

Full name of mother:

Village of residence:

Signature of Nurse/Midwife/Nursing Sister in attendance and date:

\_\_\_\_\_/\_\_\_\_\_/20\_\_

IF CHILD STILLBORN complete the following and delete where not applicable.

- (a) Stillborn – born to \_\_\_\_\_ of \_\_\_\_\_  
on \_\_\_\_\_/\_\_\_\_\_/20\_\_
- (b) Report pending/Report not required

\_\_\_\_\_  
Signature of Medical Practitioner

## C FOR OFFICE USE ONLY

- (a) Registered by: \_\_\_\_\_
- (b) Notice to parents sent on \_\_\_\_\_/\_\_\_\_\_/20\_\_
- (c) All actions completed on \_\_\_\_\_/\_\_\_\_\_/20\_\_
- (d) Registration No.: \_\_\_\_\_

\_\_\_\_\_  
Signature of officer responsible  
for the final actions

Form 3

Issue No. \_\_\_\_\_

## CERTIFICATE OF REGISTRATION

(Reg 10)

THIS IS TO CERTIFY that the birth of a male/female child born on  
\_\_\_\_\_/\_\_\_\_\_/20\_\_ has been registered in this office.

Name of Child: \_\_\_\_\_

Registration No: \_\_\_\_\_

Name of mother: \_\_\_\_\_

Name of father: \_\_\_\_\_

Village of residence: \_\_\_\_\_

Date of registration: \_\_\_\_\_/\_\_\_\_\_/20\_\_

\_\_\_\_\_  
Deputy Registrar

Note: This is not a birth certificate but it can be used locally for school enrolment  
purposes, etc.



BIRTHS AND DEATHS REGULATIONS 1984

(Reg 13)

Form 4

CHANGE OF NAME BY DEED POLL

(Full Name) I, \_\_\_\_\_

(Full Address) of \_\_\_\_\_

(Occupation) \_\_\_\_\_ am desirous of abandoning and renouncing the use of the name of

(Old Name) \_\_\_\_\_

I hereby absolutely abandon and renounce the use of the name \_\_\_\_\_ and HEREBY DECLARE that at all times here after

(New Name) I shall use and subscribe the name \_\_\_\_\_

(Old Name) in lieu of the name \_\_\_\_\_ in all deeds and documents and in all acts and proceedings and in all \_\_\_\_\_ transactions and matters and things and upon all occasions, AND I HEREBY AUTHORISE all persons at all times hereafter to \_\_\_\_\_ describe and address me by the name of

(New Name) \_\_\_\_\_

IN WITNESS WHEREOF I have here subscribed the name of

(Old Name) \_\_\_\_\_ and also my assumed name of

(New Name) \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

SIGNED by the said \_\_\_\_\_

hereafter to be known as

\_\_\_\_\_ in the presence of \_\_\_\_\_

\_\_\_\_\_ Signature: \_\_\_\_\_ Old Name

\_\_\_\_\_ New Name

Witness: \_\_\_\_\_

Address: \_\_\_\_\_

Occupation: \_\_\_\_\_

Form 5  
BIRTHS REGISTRATION REGULATIONS 1984  
(Reg 16)

OFFICE OF REGISTRAR OF BIRTHS  
ALOFI  
NIUE

To: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The birth of your child which occurred on the \_\_\_\_\_  
has not yet been registered at my office.

You are therefore reminded that registration should be effected on or before the  
\_\_\_\_\_ day of \_\_\_\_\_ 20\_\_

\_\_\_\_\_  
Registrar

NOTE: If the birth is not registered within 14 days the persons responsible for  
registration render themselves LIABLE TO PROSECUTION.

REGISTER OF DEATHS  
Form 6 (Reg 19)  
Registered at Alofi, in the Island of Niue

Entry NO:

DECEASED
1. Date of death:
2. Place of death:
3. Name:
4. Residence:
5. Sex:
6. Age:
7. Name of husband or wife (if any):
8. Number and sex of children living (if any):
9. Causes of death:
10. Duration of last illness:
11. Name of medical practitioner giving certificate and his qualifications (if any):
12. Date when medical practitioner last saw deceased:
PARENTS OF DECEASED
Mother
13. Name:
14. Residence:
15. Description:
Father
16. Name:
17. Residence:
18. Description:
INFORMANT
19. Signature:
20. Residence and occupation:
21. Degree of relationship (if any) to deceased:
REGISTRAR
22. Date of registration:
23. Signature of Registrar:

I solemnly declare that to the best of my knowledge and belief the foregoing particulars are true in every respect.

\_\_\_\_\_  
Signature of Registrar

Form 7  
 BIRTHS AND DEATHS REGISTRATION REGULATIONS 1984  
 (Reg 20)  
 MEDICAL CERTIFICATE OF CAUSES OF DEATH

A Particulars as to deceased:

Name of deceased: \_\_\_\_\_

Sex: \_\_\_\_\_ Aged as stated to me: \_\_\_\_\_

Date of death: \_\_\_\_\_, day of \_\_\_\_\_ 20\_\_\_\_\_

Place of death;

Last seen by me: \_\_\_\_\_, day of \_\_\_\_\_ 20\_\_\_\_\_

B Causes of death (State clearly in full and not in abbreviated form)

1 Disease, injury or complication (a) \_\_\_\_\_  
 directly leading to death: \_\_\_\_\_  
 due to, or as a consequence of: (b) \_\_\_\_\_  
 due to, or as a consequence of: (c) \_\_\_\_\_

2. Other significant factors: \_\_\_\_\_

3. Appropriate between onset and death: \_\_\_\_\_

C Additional data (delete box not applicable)

1. Did you see the body after death:	Yes	No
2. Post mortem (a) not intended to be held	Yes	No
(b) held and results available	Yes	No
(c) being or to be held	Yes	No

I, \_\_\_\_\_ certify that I was in medical attendance during the abovenamed deceased's last illness and the particulars quoted above are true to the best of my knowledge and belief.

(1) \_\_\_\_\_ (2) \_\_\_\_\_ (3) \_\_\_\_\_  
 Signature of Medical Officer                      Qualifications                      Date

Note: Form 8 to be completed if Medical Practitioner did not attend the deceased during his/her last illness AND NOT THIS FORM

Form 8  
CERTIFICATE OF DEATH BY MEDICAL OFFICER OF PERSON NOT  
ATTENDED BY A MEDICAL OFFICER  
(Reg 20)

TO THE REGISTRAR OF BIRTHS AND DEATHS, NIUE

I, the undersigned, hereby certify that I have examined the body of \_\_\_\_\_  
who is reported to have died at \_\_\_\_\_ on the \_\_\_\_\_ day  
of \_\_\_\_\_ 20 \_\_\_\_\_

To the best of my knowledge and belief the causes of death were:

Primary \_\_\_\_\_

Secondary \_\_\_\_\_

Witness by hand this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_ at \_\_\_\_\_

\_\_\_\_\_  
Medical Officer

Form 9  
AUTHORITY TO BURY  
(Reg. 25(3))

To \_\_\_\_\_ of \_\_\_\_\_

I \_\_\_\_\_, the Registrar of Births and Deaths, Niue

hereby authorise the burial of the body of \_\_\_\_\_ who died

at \_\_\_\_\_

on the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

Witness by hand this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

at \_\_\_\_\_

\_\_\_\_\_  
Registrar

Please advise the deceased family that this death must be registered within one  
week

Form 10  
CERTIFICATE AS TO BURIAL  
(Reg 27)

I, \_\_\_\_\_, of \_\_\_\_\_,  
hereby certify that the body of \_\_\_\_\_  
was duly buried on the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_ in my  
presence

\_\_\_\_\_  
Minister and Denomination

SCHEDULE 2  
FEES TO BE TAKEN BY REGISTRAR

Reg 30

- |  |         |
|--|---------|
| 1. Subject to (2) for every certified copy or certificate relating to an entry in any register | \$10.00 |
| 2. For every "urgent" issue of a certified copy or certificate of birth                        | \$15.00 |
| 3. For registration of a name change including the issue of a birth certificate                | \$15.00 |

FEES TO BE TAKEN BY NIUE CONSULATE GENERAL  
OFFICE IN NEW ZEALAND

- |  |         |
|--|---------|
| 1. For every certified copy or certificate relating to an entry in any register                            | \$25.00 |
| 2. For re-typing worn out copies of any certified copy or certificate relating to an entry in any register | \$15.00 |

## CO-OPERATIVE SOCIETIES REGULATIONS 1953

### PART 1 PRELIMINARY

- 1 Title**  
These are the Co-operative Societies Regulations 1953.
- 2** –
- 3 Interpretation**  
In these Regulations –
- “bonus” means a share of the profits of a registered society divided among its members in proportion to the volume of business done with the society by them from which the profits of the society were derived;
  - “by-laws” means the registered by-laws made by a society in the exercise of any power conferred by these Regulations, and includes a registered amendment to the by-laws;
  - “committee” means the governing body of a registered society to whom the management of its affairs is entrusted;
  - “dividend” means a share of the profits of a registered society divided among its members in proportion to the share capital held by them;
  - “member” includes a person or registered society joining in the application for the registration of a society; and also includes a person or registered society admitted to membership after registration in accordance with the by-laws;
  - “officer” includes a chairman, secretary, treasurer, member of committee, or other person empowered under these Regulations or under by-laws to give directions in regard to the business of a registered society;
  - “registered society” means a co-operative society registered under these Regulations;
  - “Registrar” means the Registrar of Co-operative Societies appointed under regulation 4; and includes any person when exercising such powers of the Registrar as may have been conferred upon him under that regulation;
  - “Rules” mean rules made under regulation 52.

### PART 2 REGISTRATION

- 4 Appointment of Registrar and Assistant Registrar**  
(1) Under Part VI of the Constitution –
- (a) A Registrar of Co-operative Societies;
  - (b) Such other suitable persons to assist the Registrar as may be deemed necessary.
- (2) Cabinet may by notice publicly displayed, confer on any persons appointed under subparagraph (1)(c) all or any of the powers of the Registrar under these Regulations.
- 5 Societies which may be registered**  
Subject to these Regulations, a society which has as its object the promotion of the economic interests of its members in accordance with co-operative principles, or a society established with the object of facilitating the operations of such a society, may be registered under these Regulations with limited liability.



## 6 Conditions of registration

(1) No society, other than a society of which at least one member is a registered society, shall be registered under these Regulations, unless it consists of at least 10 persons, each of whom is qualified for membership under regulation 22.

(2) No society of which any member is a registered society shall be registered under these Regulations unless it consists of at least 2 members, each of whom in the case of members other than registered societies is qualified for membership under regulation 22.

(3) The word "co-operative" or its vernacular equivalent shall form part of the name of every society registered under these Regulations.

(4) The word "limited" or its vernacular equivalent shall be the last word in the name of every society registered under these Regulations.

(5) When for the purposes of this regulation any question arises as to age, residence, or occupation of land constituting the qualification of any person, that question shall be decided by the Registrar, whose decision shall be final.

## 7 Application for registration

(1) For the purposes of registration an application shall be made to the Registrar.

(2) The application shall be signed –

(a) In the case of a society of which no member is a registered society, by at least 10 persons qualified under the requirements of regulation 6 (1); and

(b) In the case of a society of which at least one member is a registered society, by a duly authorised person on behalf of every such registered society and, where all the members of the society are not registered societies, by each of the other members.

(3) The application shall be accompanied by copies of the proposed by-laws of the society, and the persons by whom or on whose behalf the application is made shall furnish such information in regard to the society as the Registrar may require.

## 8 Registration

(1) (a) If the Registrar is satisfied that a society has complied with these Regulations and that its proposed by-laws are not contrary to these Regulations, he may, if he thinks fit, register the society and its by-laws.

(b) An appeal against the refusal of the Registrar to register any society shall lie to Cabinet within one month from the date of that refusal, and the decision of Cabinet on any such appeal shall be final.

(2) On registration the society shall pay such fee as may be prescribed by the rules.

(3) A certificate of registration signed by the Registrar shall be conclusive evidence that the society therein mentioned is duly registered, unless it is proved that the registration of the society has been cancelled.

## 9 Societies to be bodies corporate

Registration of a society shall render it a body corporate by the name under which it is registered, with perpetual succession and a common seal and with power to acquire, hold, and dispose of property, to enter into contracts, to institute and defend suits and other legal proceedings, and to do all things necessary for the purpose of its constitution.

## PART 3

## DUTIES AND PRIVILEGES OF SOCIETIES

**10 By-laws of a registered society**

(1) Every registered society shall have by-laws which, subject to these Regulations and the rules, shall provide for the following matters –

- (a) The name of the society;
- (b) The objects for which the society is established;
- (c) The modes in which persons become members of the society;
- (d) The modes in which persons cease to become members of the society;
- (e) The mode in which the by-laws may be altered, added to, or rescinded;
- (f) The mode of summoning and holding general meetings of the society and of voting there;
- (g) The appointment of officers of the society;
- (h) The control and use of the common seal of the society;
- (i) Such matters as by these Regulations or the rules are required to be prescribed by the by-laws;
- (j) Such other matters as the Registrar may require to be provided for in any particular instance.

(2) The by-laws of any registered society may contain any other provisions which are not inconsistent with these Regulations or the rules or with law.

**11 Amendment of the by-laws of a registered society**

(1) Any registered society may, subject to these Regulations, amend its by-laws, including the by-law which declares the name of the society.

(2) No amendment of the by-laws of a registered society shall be valid until that amendment has been registered, for which purpose copies of the amendment shall be forwarded to the Registrar.

(3) (a) If the Registrar is satisfied that any amendment of the by-laws is not contrary to these Regulations, he may, if he thinks fit, register the amendment.

(b) An appeal against the refusal of the Registrar to register any amendment of any by-law shall lie to Cabinet within one month from the date of that refusal, and the decision of the Cabinet on any such appeal shall be final.

(4) An amendment which changes the name of a society shall not affect any right or obligation of the society or of any of its members or past members, and any legal proceedings pending may be continued by or against the society under its new name.

(5) Where the Registrar registers an amendment of the by-laws of a registered society he shall issue to the society a copy of the amendment certified by him, which shall be conclusive evidence of the fact that the amendment has been duly registered.

(5) In this regulation “amendment” includes the making of a new by-law and the variation or rescission of a by-law.

**12 Address of society**

Every registered society shall have an address within Niue registered under the rules to which all notices and communications may be sent, and shall send to the Registrar notice of every change of that address.

**13 Copy of regulations, rules and by-laws and list of members to be open for inspection**

(1) Every registered society shall keep a copy of these Regulations and the rules and its by-laws and a list of its members open to inspection, free of charge, at all reasonable times at the registered address of the society.

(2) For the purposes of paragraph (1) the copy of the rules and the by-laws of any society shall be deemed to include all amendments thereto, and the society shall cause to be endorsed on the copy of the rules or by-laws so kept a memorandum of every such amendment.

**14 Disposal of produce to or through a registered society**

(1) A registered society which has as one of its objects the disposal of any article produced or obtained by the work or industry of any of its members (whether the article is the produce of agriculture, animal husbandry, forestry, fisheries, handicrafts, or otherwise) may provide in its by-laws, or may otherwise contract with its members –

- (a) That every such member who produces any such article shall dispose of the whole or any specified amount, proportion, or description thereof to or through the society; and
- (b) That any member who is proved or adjudged, in such manner as may be prescribed by the rules, to be guilty of a breach of the by-laws or contract shall pay to the society as liquidated damages a sum ascertained or assessed in such manner as may be prescribed by the aforesaid rules, and that sum shall be a debt due to the society by the member.

(2) No contract entered into this regulation shall be contested in any court on the ground only that it constitutes a contract in restraint of trade.

**15 Creation of charges in favour of registered societies**

Subject to any prior claim of the Crown on the property of a debtor, and to the claim of the holder of any lien on any property, and to the claim of a landlord in respect of rent or any money recoverable as rent, and, in the case of immovable property, to any prior registered charge thereon and subject also to Niue Amendment Act 1968 (No. 2) –

- (a) Any debt or outstanding demand payable to a registered society by any member or past member shall be a first charge on all crops or other agricultural produce, felled timber, or other forest produce, marine produce, fish (fresh water and salt water), livestock, fodder, agricultural, industrial and fishing implements, plant, machinery, boats, tackle and nets, raw materials, stock in trade, and generally all produce of labour and things used in connection with production and raised, purchased, or produced in whole or in part from any loan whether in money or in goods given him by the society:  
Provided that nothing in this paragraph shall affect the claim of any bona fide purchaser or transferee without notice;
- (b) Any outstanding demands or dues payable to a registered society whose primary object is the provision of housing for its members by any member or past member in respect of rent, shares, loans, or purchase money or any other rights of amounts payable to the society shall be a first charge upon his interest in the immovable property of the society.

**16 Charge and set off in respect of shares of interest of members**

A registered society shall have a charge upon the shares or interests in the capital and on the deposits of a member or past member or deceased member, and upon any dividend, bonus, or profit payable to a member or past member or to the estate of a deceased member, in respect of any debt due to the society from that member or past member or estate, and may set off any sum credited or payable to a member or past member or estate of a deceased member in or towards payment of any such debt.

**17 Shares or interest not liable to attachment**

Subject to regulation 16, the share or interest of a member in the capital of a registered society shall not be liable to attachment or sale under any decree or order of any Court in respect of any debt or liability incurred by the member, and neither his assignee in insolvency or a receiver duly appointed shall be entitled to or have any claim on that share or interest.

**18 Transfer of interest on death of member**

- (1) (a) On the death of a member, a registered society may transfer the share or interest of the deceased member to the person nominated in accordance with the rules made in that behalf, or, if there is no person so nominated, to such person as may appear to the committee to be the heir or legal representative of the deceased member, or may pay to that nominee, heir, or legal representative, as the case may be, a sum representing the value of the member's share or interest, as ascertained in accordance with the rules or, where there are no such rules or in so far as the rules do not provide, by the by-laws.
  - (b) The society may transfer the share or interest of the deceased member to that nominee, heir, or legal representative, as the case may be, being qualified in accordance with the rules for membership of the society, or, where there are no such rules or in so far as the rules do not provide, by the by-laws of the society, or on his application within 6 months of the death of the deceased member to any person specified in the application who is so qualified.
- (2) A registered society shall pay to that nominee, heir, or legal representative, as the case may be, all other moneys due to the deceased member of the society.
- (3) All transfers and payments made by a registered society in accordance with the provisions of this regulation shall be valid and effectual against any demand made upon the society by any other person.

**19 Deposits by or on behalf of minors**

(1) A registered society may receive deposits from or on behalf of minors and it shall be lawful for a registered society to pay to any such minors the interest which may become due on those deposits.

(2) Any deposits made by a minor may, together with the interest accrued thereon, be paid to that minor; and any deposit made on behalf of a minor may, together with the interest accrued thereon, be paid to the guardian of that minor for the use of the minor.

(3) The receipt of any minor or guardian for money paid to him under this regulation shall be a sufficient discharge of the liability of the society in respect of that money.

**20 Register of members**

Any register or list of members kept by any registered society shall be prima facie evidence of any of the following particulars entered therein –

- (a) The date at which the name of any person was entered in the register or list as a member;
- (b) The date at which any such person ceased to be a member.

**21 Proof of entries in books of society**

(1) A copy of any entry in a book of a registered society regularly kept in the course of business shall, if certified in such manner as may be prescribed by the rules, be received in any legal proceeding in any court (civil or criminal) as prima facie evidence of the existence of that entry, and shall be admitted as evidence of the matters, transactions, and accounts therein recorded in every case where, and to the same extent as, the original entry itself is admissible.

(2) No officer of any such society shall, in any legal proceedings to which the society is not a party, be compelled to produce any of the society's books the contents of which can be proved under paragraph (1), or to appear as a witness to prove any matters, transactions, or accounts therein recorded, unless the court for special reasons so directs.

**PART 4****RIGHTS AND LIABILITIES OF MEMBERS****22 Qualifications for membership**

In order to be qualified for membership of a society a person, other than a registered society, must –

- (a) Have attained the age of 18 years; and
- (b) Be resident within or a titleholder by Niue custom within the society's areas of operations as described by the by-laws.

**23 Members not to exercise rights till due payment made**

No member of a registered society shall exercise the rights of a member unless he has made such payment to the society in respect of membership or acquired such interest in the society, as may be prescribed by the by-laws of the society.

**24 Restriction of membership in society**

Except with the sanction of the Registrar, no person shall be a member of more than one registered society whose primary object is to grant loans to its members.

**25 Votes of members**

(1) No member of any registered society shall have more than one vote in the conduct of the affairs of the society.

(2) In the case of an equality of votes the Chairman shall have a casting vote.

(3) In the case of societies the membership of which includes one or more registered societies, each last-mentioned society may have such voting powers as are provided in the by-laws.

**26 Representation by proxy**

A registered society that is a member of any other registered society may appoint any one of its members as its proxy for the purpose of voting in the conduct of the affairs of that other registered society.



**27 Contracts with society of members who are minors**

The minority of any person duly admitted as a member of any registered society shall not debar that person from executing any instrument or giving any acquittance necessary to be executed or given under these Regulations or any rules made thereunder and shall not be a ground for invalidating or avoiding any contract entered into by any such person with the society; and any such contract entered into by any such person with the society, whether as principal or as surety, shall be enforceable at law or against that person notwithstanding his minority or non-age.

**28 No individual to hold more than one-fifth of share capital of any society**

No member, other than another registered society, shall hold more than one-fifth of the share capital of any registered society.

**29 Restrictions on transfer of share or interest**

The transfer or charge of the share or interest of a member or past member or deceased member in the capital of a registered society shall be subject to such conditions as to maximum holding as may be prescribed by these Regulations or by the rules.

**30 Limitation of liability of members**

(1) In the event of a registered society being wound up, every present and past member of the society shall be liable to contribute to the assets of the society to an amount sufficient for payment of its debts and liabilities, and the costs, charges, and expenses of the winding up, and for the adjustment of the rights of those members among themselves, subject to the following qualifications –

- (a) A past member shall not be liable to contribute if he has ceased to be a member for 2 years or upwards before the commencement of the winding up;
- (b) A past member shall not be liable to contribute in respect of any debt or liability of the society contracted after he ceased to be a member;
- (c) A past member shall not be liable to contribute unless it appears to the Registrar that the existing members are unable to satisfy the contributions required to be made by them under these Regulations;
- (d) In the case of a society limited by shares no contribution shall be required from any member exceeding the amount, if any, unpaid on the shares in respect of which he is liable as a present or past member;
- (e) In the case of a society limited by guarantee no contribution shall, subject to paragraph (2), be required from any present or past member exceeding the amount undertaken to be contributed by him to the assets of the society in the event of its being wound up.

(2) In the winding up of a society limited by guarantee which has a share capital, every member of the society shall be liable, in addition to the amount undertaken to be contributed by him to the assets of the society in the event of its being wound up, to contribute to the extent of any sums unpaid on the shares in respect of which he is liable as a past or present member.

(3) The personal representatives of the estate of a person who was a member of a registered society at the commencement of the winding up of the society or had ceased to be a member of the society within the period of 2 years preceding the commencement of the winding up shall be liable in a due course of administration to contribute to the assets of the society in discharge of his liability.

## PART 5

## PROPERTY AND FUNDS OF REGISTERED SOCIETIES

**31 Loans made by a registered society**

- (1) (a) A registered society shall not, except as provided by regulation 34 make any loan to any person other than a member.
- (b) With the consent of the Registrar a registered society may make loans to another registered society.
- (2) Except with the permission of the Registrar a registered society shall not lend money on the security of any movable property other than produce or goods in which the society is authorised to deal.
- (3) Cabinet may, by general or special order publicly notified, prohibit or restrict the lending of money by any registered society on mortgage of any description of immovable property.

**32 Deposits and loans received by a registered society**

A registered society may receive deposits and loans from persons who are not members only to such extent and under such conditions as may be prescribed by the rules or, where there are no such rules or in so far as the rules do not provide, by the by-laws of the society.

**33 Restrictions on other transactions with non-members**

Save as provided in regulations 31 and 32, the transactions of a registered society with persons other than members shall be subject to such prohibitions and restrictions as may be prescribed by the rules.

**34 Investment of funds**

A registered society may invest or deposits its funds –

- (a) In the Post Office Savings Bank or with any bank approved for this purpose by the Registrar; or
- (b) In any securities issued or guaranteed by the Government or any country that is a member of the Commonwealth; or
- (c) With any other registered society approved for this purpose by the Registrar; or
- (d) In any other manner approved by the Registrar.

**35 Disposal of profits**

- (1) (a) Where a registered society is entitled by its constitution to make a profit it shall carry a reserve fund at least one-fourth of the net profits, if any, made during every year as ascertained by the audit prescribed by regulation 36.
- (b) The remainder of those profits and any profits of past years available for distribution may be divided among the members by way of dividend or bonus, or allocated to any fund constituted by the society, to such extent as may be prescribed by the rules or, where there are no such rules or in so far as the rules do not provide, by the by-laws of the society.
- (2) Any registered society may, with the sanction of the Registrar after one-fourth of the net profits in any year have been carried to a reserve fund, contribute an amount not exceeding 10 per cent of the remaining net profits to any charitable purpose or to a fund established or maintained for the common good.
- (3) No society shall pay a dividend or bonus or distribute any part of its accumulated funds before the balance sheet has been certified by the Registrar and the amount of the dividend, bonus, or distribution, as the case may be, has been approved by the Registrar.



## PART 6

## AUDIT, INSPECTION AND INQUIRY

**36 Audit**

(1) The Registrar shall audit, or cause to be audited by some person authorised by him by general or special order in writing, the accounts of every registered society once at least in every year.

(2) The audit under paragraph (1) shall include an examination of overdue debts, if any, and a valuation of the assets and liabilities of the registered society.

(3) The Registrar and every other person appointed to audit the accounts of a society shall have power when necessary –

(a) To summon at the time of his audit any officer, agent, servant, or member of the society who he has reason to believe can give material information in regard to any transaction of the society or the management of its affairs; or

(b) To require the production of any book or document relating to the affairs of, or any cash or securities belonging to, the society by the officer, agent, servant, or member in possession of that book, document, cash or securities.

(4) Every officer, agent, servant, or member of the society shall furnish such information in regard to the transactions of the society and the management of its affairs and shall produce such articles as aforesaid as may be required under paragraph (3) by the Registrar or other person appointed to audit the accounts of the society.

**37 Power of Registrar to inspect society's books**

The Registrar, or any person authorised by general or special order in writing by the Registrar shall at all times have access to all the books, accounts, papers, and securities of a registered society, and shall be entitled to inspect the cash in hand, and every officer of the society shall furnish such information in regard to the transaction and working of the society as the person making the inspection may require.

**38 Inquiry and inspection**

(1) The Registrar may of his own motion, and shall on the application of a majority of the committee or of not less than one-third of the members of a registered society, hold an inquiry, or direct some person authorised by him by order in writing in this behalf to hold an inquiry, into the constitution, working, and financial condition of a registered society; and all officers and members of the society shall furnish such information in regard to the affairs of the society and produce the cash in hand and such books, accounts, papers, and securities of the society as the Registrar or the person authorised by him may require.

(2) The Registrar shall, on the application of a creditor of the registered society, inspect, or direct some person authorised by him in writing in his behalf to inspect the books of the society, if the applicant –

(a) Proves that an ascertained sum of money is then due to him and that he has demanded payment thereof and has not received satisfaction within a reasonable time; and

(b) Deposits with the Registrar such sum as security for the costs of the proposed inspection as the Registrar may require.

(3) The Registrar shall communicate the results of any such inspection to the creditor and to the society into whose affairs inquiry has been made.

**39 Costs of inquiry and inspection**

(1) Where an inquiry is held under regulation 38 (1) or an inspection is made under regulation 38 (2) the Registrar may by certificate under his hand apportion the costs, or such part of the costs as he thinks fit, between the registered society, the members demanding the inquiry, the officers or former officers of the society, and the creditor, as the case may be, on whose application the inquiry or inspection was made.

(2) The Registrar of Co-operative Societies may, without any previous process file in the Court the certificate referred to in paragraph (1) and the Registrar of the Court shall enter final judgment in that Court for the sums mentioned in the certificate to be paid by the persons specified therein, and thereupon execution may be forthwith issued and all other remedies had thereon in the same manner as any other decree of the Court.

PART 7  
WINDING UP

**40 Winding up after inquiry or by consent**

(1) If the Registrar, after holding an inquiry or making an inspection under regulation 38 or on receipt of an application made by three-fourths of the members of a registered society, is of opinion that the society ought to be wound up, he may make an order for the winding up of the society.

(2) Any member of a registered society may within 2 months from the date of an order under paragraph (1) appeal from the order to Cabinet and the decision of Cabinet on any such appeal shall be final.

(3) (a) Where no appeal is presented within 2 months from the making of an order for the winding up of a society, the order shall take effect on the expiry of that period.

(b) Where an appeal is presented within 2 months, the order shall not take effect until it is confirmed.

(4) Where the Registrar makes an order under paragraph (1) for the winding up of a society, he may make such further order as he thinks fit for the custody of the books and documents and the protection of the assets of the society until the winding up order takes effect.

(5) No registered society shall be wound up save by an order of the Registrar.

**41 Winding up due to lack of membership or failure to carry on operations**

(1) The Registrar may make an order for the winding up of any registered society if at any time it is proved to his satisfaction that –

(a) The number of members has been reduced to less than 10 or, in the case of a society of which at least one member is a registered society, to less than 2; or

(b) The society is no longer carrying on its operations; or

(c) The society has been registered by reason of a mistake of fact or law.

(2) Every such order shall take effect from the date thereof.

(3) At any time thereafter the Registrar, on being satisfied that the winding up order was made in error and ought to be revoked, may revoke the order by notice publicly notified, and shall thereupon make an entry of the revocation in the Register.

**42 Appointment of liquidator**

Where the Registrar makes a winding up order under regulation 40 or regulation 41, he may appoint one or more persons to be liquidator or liquidators of the society, subject to his direction and control.

**43 Liquidator's powers**

(1) A liquidator appointed under regulation 42 shall, subject to the guidance and control of the Registrar and to any limitations imposed by the Registrar by order under regulation 44, have power to –

- (a) Determine the contributions to be made to its assets by members and past members or by the estates of deceased members of the society;
- (b) Appoint by notice a day before which creditors whose claims are not already recorded in the books of the society shall state their claims for admission or be excluded from any distribution made before they have proved them;
- (c) Decide any question of priority which arises between creditors;
- (d) Refer disputes to arbitration or institution and defend suits and other legal proceedings on behalf of the society by his name or office;
- (e) Decide by what persons and in what proportions the costs of liquidation are to be borne;
- (f) Give such directions in regard to the collection and distribution of assets as may be necessary in the course of winding up the society;
- (g) Compromise any claim by or against the society provided the sanction of the Registrar has first been obtained;
- (h) Call such general meetings of members as may be necessary for the proper conduct of the liquidation;
- (i) Take possession of the books, documents, and assets of the society;
- (j) Sell the property of the society;
- (k) Carry on the business of the society as far as may be necessary for winding it up beneficially:  
Provided that nothing in this subparagraph shall entitle the liquidator of a credit society to issue any loan;
- (l) Arrange for the distribution of the assets of the society in a convenient manner when a scheme of distribution has been approved by the Registrar.

(2) Subject to such rules as may be made in this behalf, any liquidator appointed under these regulations shall, in so far as such powers are necessary for carrying out the purposes of this regulation, have power to summon or enforce the attendance of parties and witnesses and to compel the production of documents by the same means and as far as may be in the same manner as is provided in the case of the Court.

**44 Power of registrar to control liquidation**

A liquidator shall exercise his powers subject to the control and revision of the Registrar, who may –

- (a) Rescind or vary any order made by a liquidator and make whatever new order is required;
- (b) Remove a liquidator from office;
- (c) Call for all books, documents and assets of the society;
- (d) By order in writing limit the powers of a liquidator under regulation 43;
- (e) Require accounts to be rendered to him by the liquidator;

- (f) Procure the auditing of the liquidator's accounts and authorise the distribution of the assets of the society;
- (g) Make an order for the remuneration of the liquidator;
- (h) Refer any subject of dispute between a liquidator and any third party to arbitration if that party consents in writing to be bound by the decision of the arbitrator.

#### **45 Enforcement of order**

(1) Subject to regulation 51 the decision of an arbitrator on any matter referred to him under regulation 44 shall be binding on all parties, and shall be enforceable in the manner provided in paragraph (2).

(2) An order made by a liquidator or by the Registrar under regulation 43 or 44 may be enforced by the Court in like manner as a decree of that Court.

#### **46 Appeal against order of liquidator or Registrar**

An appeal against any decision made by a liquidator under regulation 43 or against any decision made by the Registrar under regulation 44 (a), may, with the written consent of the Cabinet be made to the Court in the manner and time prescribed in that written consent.

#### **47 Completion of liquidation and dissolution of society**

(1) In the liquidation of a society whose registration has been cancelled the funds, including the reserve fund, shall be applied first to the costs of liquidation, then to the discharge of the liabilities of the society (which shall abate rateably if the funds are insufficient), then to the payment of the share capital, and then, provided the by-laws of the society permit, to the payment of a dividend at a rate not exceeding 10 per cent per annum for any period for which no disposal of profits was made.

(2) When the liquidation of a society has been completed, notice of the completion of the liquidation shall be publicly notified by the Registrar in such manner as he thinks proper; and as from the date of that notification the society shall be deemed to be dissolved and shall cease to be a body corporate.

(3) Any surplus remaining after the completion of the liquidation shall be available for use by the Registrar for any co-operative purpose at his discretion.

### **PART 8**

#### **SURCHARGE OF OFFICERS**

#### **48 Power of Registrar to surcharge officers of a registered society**

(1) Where in the course of the winding up of a registered society it appears that any person who has taken part in the organisation or management of the society or any past or present officer of the society has misapplied or retained or become liable or accountable for any money or property of the society or has been guilty of misfeasance or breach of trust in relation to the society, the Registrar may, on the application of the liquidator or of any creditor or contributory, examine the conduct of the first-mentioned person and, notwithstanding that the at is one for which the offender may be criminally responsible and whether or not he has been charged with an offence in respect of the matter, make an order requiring him to repay or restore the money or property or any part thereof with interest at such rate as the Registrar thinks just or to contribute such sum to the assets of the society by way of compensation in regard to the misapplication, retainer, dishonesty, or breach of trust as the Registrar thinks just.

(2) Subject to regulation 49, every person against whom any order is made under paragraph (1) shall forthwith comply with that order.

**49 Appeal to Cabinet**

Any person aggrieved by any order of the Registrar made under regulation 48 may appeal to Cabinet within 21 days from the date of the order, and the decision of Cabinet shall be final and conclusive.

PART 9  
DISPUTES

**50 Settlement of disputes**

- (1) If any dispute touching the business of a registered society arises –
- (a) Among members, past members, and persons claiming through members, past members, and deceased members; or
  - (b) Between a member, past member, or person claiming through a member, past member, or deceased member, and the society, its committee, or any officer of the society; or
  - (c) Between the society or its committee and any officer of the society; or
  - (d) Between the society and any other registered society,
- the dispute shall be referred to the Registrar for decision.
- (2) A claim by a registered society for any debt or demand due to it from a member or past member or the nominee, heir, or legal representative of a deceased member shall be deemed to be a dispute touching the business of the society within the meaning of this regulation.
- (3) The Registrar, may, on receipt of a reference under paragraph (1) –
- (a) Decide the dispute himself; or
  - (b) Refer it for disposal to an arbitrator or arbitrators.

**51 Appeal**

- (1) Any party aggrieved by an award made under regulations 45 or 50 by the Registrar or by an arbitrator or arbitrators appointed by him may appeal therefrom in the manner and time prescribed by the rules to the Court.
- (2) On an appeal under paragraph (1) the Court may dismiss the appeal or vary the award of the Registrar or arbitrator or arbitrators to make such other order as may appear just and proper, and shall make such order as to the costs of the arbitration and the appeal as it thinks fit, and the decision of the Court shall be final.

PART 10  
RULES

**52 Rules**

- (1) Subject to these regulations, Cabinet may make all such rules as it considers necessary for the purpose of carrying out or giving effect to the principles and provisions of these regulations.
- (2) In particular and without prejudice to the generality of the power conferred by paragraph (1), the rules may –
- (a) Prescribe the forms to be used, the fees to be paid, the conditions to be complied with in applying for the registration of a society, and the procedure in the matter of those applications;
  - (b) Prescribe the extent to which a registered society may limit the number of its members;
  - (c) Provide for the appointment, suspension, and removal of the members of the committee, and for the procedure at meetings of the committee, and for the powers to be exercised and the duties to be performed by the committee;



- (d) Regulate the manner in which funds may be raised by means of shares or debentures or otherwise;
- (e) Prescribe the conditions to be observed by a registered society applying for financial assistance from the Government;
- (f) Prescribe the payments to be made, the conditions to be complied with, and the forms of the bonds, instruments, or other documents to be executed, by members applying for loans or cash credits, the period for which loans may be made or credits granted, and the maximum amount which may be lent and the maximum credit which may be allowed to individual members with or without the consent of the Registrar;
- (g) Provide for the mode in which the value of a deceased member's interest shall be ascertained and for the nomination of a person to whom any such interest may be paid or transferred;
- (h) Provide for the mode in which the value of the interest of a member who has become of unsound mind and incapable of managing himself or his affairs shall be ascertained and for the nomination of any person to whom any such interest may be paid or transferred;
- (i) Provide for the formation and the maintenance of reserve funds, and the objects to which those funds may be applied, and for the investment of any funds under the control of any registered society;
- (j) Prescribe the maximum rate of dividend which may be paid by societies;
- (k) Prescribe the accounts and books to be kept by a registered society, and for the periodical publication of a balance sheet showing the assets and liabilities of a registered society;
- (l) Provide for the audit of the accounts of registered societies and for the charges, if any, to be made for that audit, and provide for the levy of contributions from all or any registered societies to a fund to be used for the audit and supervision of existing societies and co-operative propaganda and prescribe for the administration of any such fund;
- (m) Prescribe the returns to be submitted by registered societies to the Registrar and the person by whom and the form in which the returns are to be made;
- (n) Provide for the persons by whom, and the form in which, copies of entries in books of registered societies may be certified;
- (o) Provide for the formation and maintenance of a register of members and, where the liability of members is limited by shares, of a register of shares;
- (p) Prescribe the mode of appointing an arbitrator or arbitrators and the procedure to be followed in proceedings before the Registrar or the arbitrator or arbitrators;
- (q) Prescribe the procedure to be followed by a liquidator appointed under regulation 42;
- (r) Prescribe the forms to be used, the fees to be paid, the procedure to be observed, and all other matters connected with or incidental to the presentation, hearing, and disposal of appeals under these regulations.

(3) Cabinet shall publicly notify in such manner as it thinks fit rules made by Cabinet under this regulation.

## PART 11

## MISCELLANEOUS

**53 Recovery of sums due to Crown**

(1) All sums due to the Crown from a registered society or from an officer or member or past member of a registered society as such may be recovered in the manner provided for the recovery of debts due to the Crown under the law for the time being in force.

(2) Sums due from a registered society to the Crown and recoverable under paragraph (1) may be recovered first from the property of the society, and secondly on the winding up of the society from the members subject to the limit of their liability.

**54 Power to exempt from stamp duty and registration fees**

The Cabinet may, by notice in writing in the case of any registered society or class of societies remit –

- (a) The stamp duty with which, under any law for the time being in force, instruments executed by or on behalf of a registered society, or by an officer or member, and relating to the business of the society or any class of those instruments are respectively chargeable; or
- (b) Any fee payable for registration for the time being in force.

**55 Prohibition of the use of the word “Co-operative”**

(1) No person other than a registered society shall trade or carry on business under any name or title of which the word “Co-operative” or its vernacular equivalent is part without the consent of Cabinet.

(2) Any person who commits a breach of this regulation is guilty of an offence and is liable to a fine not exceeding 0.5 penalty units and in the case of a continuing offence to a further fine not exceeding 0.5 penalty units for each day during which the offence continues.

**56** [Spent]

**57 Offences**

Every person is guilty of an offence, and is liable to a fine not exceeding 1 penalty unit, who –

- (a) Being a registered society or an officer or member of a society, wilfully neglects or refuses to do any act or to furnish any information required by or for the purposes of these Regulations by the Registrar or by any person authorised by the Registrar in writing in that behalf; or
- (b) Being a registered society or an officer or member of a society, when required to make a return or supply any information for the purposes of these regulations wilfully makes a false return or supplies false information; or
- (c) Wilfully or without reasonable cause disobeys any summons, requisition, or lawful written order issued under these Regulations.

**58 Penalty for soliciting violation of contract**

Any person who, having knowledge or notice of the existence of a contract described in regulation 14, solicits or persuades any person to sell or deliver any article in violation of that contract is guilty of an offence and is liable to a fine not exceeding 0.5 penalty units and shall in addition be ordered to pay to the society concerned such damage as to the court may seem fit.



## DENTAL REGULATIONS 1970

1970 – 25 May 1970

### 1 Title

These are the Dental Regulations 1970.

### 2 Meaning of “practice of dentistry”

In these regulations, “the practice of dentistry” includes –

- (a) The performance of any operation, and the treatment of any diseases, deficiencies, or lesions, on or of the human teeth or jaws, and the correction of malpositions thereof and the performance of radiographic work in connection with the human teeth or jaws;
- (b) The giving of any anaesthetic in connection with any operation on the human teeth or jaws;
- (c) The mechanical construction or the renewal of artificial dentures or restorative dental appliances;
- (d) The performance of any operation on, or the giving of any treatment, advice, or attendance to, any person, as preparatory to or for the purpose of or for or in connection with the fitting, insertion, fixing, constructing, repairing, or renewing of artificial dentures or restorative dental appliances;
- (e) The performance of any such operation and the giving of any such treatment, advice, or attendance as is usually performed or given by registered dentist.

### 3 Practice of dentistry

(1) No person shall practise dentistry in Niue or hold himself out, whether directly or by implication, as practising or being entitled to practise dentistry in Niue, unless he is registered in New Zealand as a dentist.

(2) Notwithstanding anything in paragraph (1) –

- (a) A graduate in dentistry of the Fiji School of Medicine, or any person who has such knowledge of and training in dentistry as are in the opinion of Cabinet equal to that of such a graduate, may practise dentistry in Niue as an employee of the Niue Public Service subject to the general control of the Chief Medical Officer;
- (b) A medical officer and any other person qualified to practise medicine or surgery in Niue may perform any dental operation, or do any other act that is within the meaning of “the practice of dentistry”, in the ordinary course of practice as such or in any case where the services of a person qualified to practise dentistry in Niue are not obtainable;
- (c) Any person may extract a tooth where the case is urgent and no person qualified to practise dentistry in Niue and no person referred to in subparagraph (b) and (c) is available, provided the operation is performed without the application of any general or local anaesthetic;
- (d) Any person acting under the direction of a person entitled to practise dentistry in Niue may construct or renew artificial dentures or restorative dental appliances.

(3) Every person commits an offence who does any act in contravention of this regulation, and is liable to a fine not exceeding 0.5 penalty units and in the case of a continuing offence, to a further fine not exceeding 0.5 penalty units for every day on which the offence has occurred.

## GAMING (FEES) REGULATIONS 2005

2005/4 – 24 June 2003

### 1 Title

These are the Gaming (Fees) Regulations 2005.

### 2 Permitted gambling activities

The gambling activities set out in the Schedule are permitted in Niue, subject to the restrictions and payment of fees set out in the Schedule.

### 3 Gambling permit

No person except –

- (a) A society incorporated under the Incorporated Societies Act 1908, and whose objects are principally sport, recreational or purposes of benefit to the community;
- (b) An unincorporated body of persons associating for sporting, recreational or purpose of benefit to the community, and which –
  - (i) is substantially permanent in nature; and
  - (ii) has a standing committee; and
  - (iii) operates a bank account

shall permit any person to be engaged in on any premises for the time being occupied by it or until its control, any gambling activity except pursuant to, and in accordance with the terms and conditions of a permit issued under these Regulations.

### 4 Application for permit

(1) Every application for a permit under these Regulations shall be made in writing to the Chief of Police, and shall be in such form and contain such information as the Chief of Police may require;

(2) On receipt of an application for a gambling permit, the Chief of Police may –

- (a) Approve the application either wholly or in part, and subject to such terms and conditions as the Chief of Police may think fit to impose; or
- (b) Decline the application.

### 5 Offences

Any person who contravenes these Regulations or fails to comply with a term or condition of a permit commits an offence.

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#### SCHEDULE

Permitted Activity	Limit	Permit Fee
Raffle (per raffle)	\$500.00	\$10.00
Major Raffle (per raffle)	Over \$500.00	\$50.00
Housie or bingo (per session)	\$100.00	\$20.00
Housie or bingo (for a jackpot competed for over a series of games)	\$500.00	\$20.00
Card games (per game per session)	\$50.00	\$20.00
Coin-operated machines (per machine per year)	\$50.00	\$20.00
Break-open, scratch card or other instant prize games	\$50.00	\$20.00

## HIGH COURT RULES 1916

- 1 These are the High Court Rules 1916.
- 2 Every civil proceeding shall be instituted either by way of action, or by way of petition, or by way of motion, in accordance with the following Rules.
- 3 The following proceedings shall be instituted by way of action:
  - (a) Every proceeding for the recovery of debt or damages;
  - (b) Every proceeding for the recovery of land or chattels;
  - (c) Every proceeding for injunction, prohibition, or mandamus;
  - (d) [Repealed by SR 1962/72]
  - (e) Every proceeding which by the law for the time being in force in New Zealand must, if instituted in the High Court, be commenced by writ of summons or originating summons.
- 4 Every proceeding against the Crown shall be commenced by way of petition.
- 5 All other civil proceedings not being proceedings for a decree of divorce or nullity of marriage may be commenced by way of motion.

### *Actions*

- 6 Every action shall be commenced by filing with a Registrar of the Court a statement of claim intituled "In the High Court of Niue" setting forth the names and descriptions of the plaintiff and defendant, the nature of the cause of action, and the relief claimed. Forms similar to those in Schedule 1 may be used.
- 7 On the filing of the statement of claim the Registrar shall thereupon issue, under the seal of the Court, a summons to the defendant in form 1 of Schedule 2, requiring the defendant to appear at the trial of the action at the time and place mentioned in the summons. A copy of the statement of claim shall be annexed to the summons.
- 8 –
- 9 The time and place of the trial of the action shall be determined by the Registrar as he thinks fit, and shall be stated in the summons accordingly.
- 10 As against any defendant who consents to trial without summons, an action duly commenced by the filing of a statement of claim may be tried and determined without the issue or service of any summons.
- 11 No pleadings other than the statement of claim shall be required in any action.
- 12 The Court may require a plaintiff at or before the trial of the action to file a fuller and more explicit statement of his claim, and may stay further proceedings in the action until this has been done.
- 13 A plaintiff may at any time before or during the trial amend his statement of claim with the leave of the Court.

**14** (1) The summons to a defendant may, as the Registrar thinks fit, be served either by an officer of the Court or by the plaintiff or his agent.

(2) Proof of service may be made either by affidavit or by a witness at the trial.

**15** (1) The summons shall be served on the defendant in person.

(2) Where there are more defendants than one, a separate summons shall, except in the case of a firm of partners, be issued and served on each defendant.

**16** The summons may be served upon a corporation by leaving the same at any place of business of the corporation.

**17** When partners are sued as partners they may be sued either in the firm name or in the names of the partners, and in either case the summons may be served by delivering it to any one of the partners or by leaving it at any place of business of the firm.

**18** When a defendant is not in Niue but has an attorney or agent authorised to defend actions on his behalf, the summons may by leave of the Court be served upon such attorney or agent.

**19** The summons may be served anywhere in Niue but not elsewhere except in accordance with the provisions of these Rules for service outside Niue.

**20** If it appears to the Court that reasonable efforts have been made to effect service of the summons, and either that the summons has come to the knowledge of the defendant or that prompt personal service thereof cannot be effected, the Court may order that the plaintiff be at liberty to proceed as if personal service had been effected, subject to such conditions as the Court thinks fit to impose.

**21** A summons may be served out of Niue by leave of the Court –

(a) Where the cause of action or some material part thereof has arisen in Niue;

(b) Where the subject-matter of the action is property situated in Niue;

(c) Where it is sought to compel or restrain the performance of any act in Niue.

**22** Every application for an order for leave to serve a summons out of Niue shall be supported by evidence by affidavit or otherwise, showing in what place or country the defendant is or probably may be found, and whether the defendant is a New Zealand subject or not, and the grounds on which the application is made.

**23** If in any action a summons has become inoperative by reason of not being served in due time, or if for any other reason it is considered expedient to issue a further summons to the same defendant, a further summons may be issued accordingly in the same manner as if no previous summons had been issued.

**24** No action shall be deemed improperly constituted because of the joinder of plaintiffs or defendants or of different causes of action; but the Court may, in any case in which such joinder is considered embarrassing or otherwise expedient order any party or cause of action to be struck out.

25 Where there are numerous persons having the same interest in an action one or more of them may sue or be sued, or may be authorised by the Court to defend in such action, on behalf of or for the benefit of all persons so interested.

26 The Court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as appear to the Court to be just, order that the name of any party, whether a plaintiff or a defendant, improperly joined be struck out, and that the name of any person who ought to have been joined, or whose presence before the Court may be necessary to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the action, be added, whether as plaintiff or defendant.

27 No person shall be added as a plaintiff without his own consent.

28 Infants and lunatics may sue and be sued by a guardian *ad litem* admitted for that purpose by the Court.

29 A guardian *ad litem* may be removed by the Court upon sufficient cause being shown.

30 In the case of the death, retirement, or removal of an *ad litem* a fresh guardian shall be appointed by the Court.

31 A guardian *ad litem* shall not be permitted to retire without the leave of the Court.

32 The guardian *ad litem* shall be liable for the costs of the action.

33 In an action against an infant or a lunatic the statement of claim may be filed before the appointment of a guardian *ad litem*, but no further steps in the action shall be taken until such appointment has been made.

34 A summons to a witness in any civil proceeding may be in form 2 in Schedule 2.

35 Any such summons may be served either by the proper officer of the Court or by the party at whose instance the witness is summoned or his agent.

36 Without the leave of the Court no such summons shall be issued requiring any witness to attend at any place outside the island in which he is resident or present at the date of the issue of the summons.

37 Witnesses in civil proceedings, whether summoned or not, shall be entitled to such payment in respect of their expenses and loss of time as the Court awards.

38 If the claim in any action is for a sum of money the defendant may, before trial of the action, pay into Court a sum of money by way of satisfaction, and give notice of such payment to the plaintiff.

39 Any money paid into Court as aforesaid may be paid out to the plaintiff or his duly authorised agent, but the receipt thereof shall not affect the right of the plaintiff to proceed with the action for the recovery of any further sum claimed and not so paid into Court.

40 The fact that money has been so paid into Court shall be taken into consideration in the award of costs as between the plaintiff and defendant.

41 The plaintiff may at any time before trial discontinue his action, either wholly or as to any cause of action, by filing in Court a memorandum of discontinuance.

42 A copy of such memorandum shall be served upon the defendant.

43 On any such discontinuance the Court may award to the defendant such costs of the action as it thinks fit.

44 The discontinuance of an action shall not be a defence to any subsequent action on the cause of action discontinued, provided that the costs of the previous action so awarded have been paid.

45 No judgment shall be given in any action by default, and every action shall be heard and determined in the ordinary course whether the defendant appears on the trial or not.

46 If on the trial of any action the plaintiff does not appear, the Court may either adjourn the trial, or give judgment for the defendant, or nonsuit the plaintiff.

47 The plaintiff in any action may at any time before judgment elect to be nonsuited, and the Court may nonsuit the plaintiff without his consent.

48 After a nonsuit the plaintiff shall not be debarred from commencing a further action on the same cause of action, all the costs of the first action having been first paid.

49 No action shall be tried by a jury.

50 The parties to any action may concur in stating the questions of law arising in the action in the form of a special case for the opinion of the Court.

51 Every such special case shall concisely state such facts and documents as may be necessary for the decision of the questions raised therein.

52 On the argument of the special case the Court shall be at liberty to draw from the facts and documents so stated any inference of fact which might have been drawn therefrom if proved at the trial.

53 On the argument of the questions of law raised in such special case the Court may give judgment in the action, or may order the issues of fact or any of them to be tried before giving judgment.

54 Every judgment debt in excess of \$200 shall carry interest at the rate of 6 per cent per annum from the time of judgment being given until the same is satisfied, and such interest may be levied under any writ of execution upon such judgment.



*Executions*

- 55 A writ of sale may be in form 3 in Schedule 2.
- 56 A writ of possession may be in form 4 in Schedule 2.
- 57 A charging order under section 92 of the Niue Act 1966 may be made by the Court *ex parte* on the application of the judgment creditor, and shall specify the property to which it relates.
- 58 So long as any such order remains in force the amount of the judgment debt shall constitute an equitable charge upon the property specified in the order.
- 59 For the purpose of enforcing any such charge the Court may, and either on the making of the charging order or any time thereafter, on the *ex parte* application of the judgment creditor, make such order or orders as it thinks fit against all persons concerned –
- (a) For the appointment of a receiver of the rents, profits, or revenues of any property so charged; or
  - (b) For the payment into Court in satisfaction of the judgment of any such rents, profits, or revenues, or of any moneys subject to the charge; or
  - (c) For the sale of any such property by an officer of the Court, disobedience to any order so made shall constitute a contempt of Court.
- 60 Any charging order, or any order so made in pursuance of a charging order, may be at any time cancelled or varied on the application either of the judgment debtor or the judgment creditor, or of any other person concerned.
- 61 An application for an order against a judgment debtor under section 94 of the Niue Act 1966 may be in form 5 in Schedule 2.
- 62 A judgment summons under section 95 of the Niue Act 1966 may be in form 6 in Schedule 2.
- 63 Every such judgment summons shall be served in the same manner as a summons to a defendant on the commencement of an action, and all the provisions of these Rules as to the place and time of the hearing of an action shall apply also to the hearing of the application in respect of which such judgment summons is issued.

*Motions*

- 64 Every civil proceeding not required to be commenced by way of action or petition may be commenced by way of motion.
- 65 Every interlocutory motion may be made either verbally in open Court or by filing with a Registrar an application setting forth briefly the nature and grounds of the relief sought by the applicant.
- 66 Every originating motion shall be made by filing with a Registrar an application setting forth briefly the nature and grounds of the relief sought by the applicant.



67 Motions may be made in the forms set forth in Schedule 3 or in forms to the like effect.

68 (1) Except where otherwise provided, or where the Court is satisfied that the nature of the motion is such that it may properly be made and determined *ex parte*, every motion shall be heard and determined only after due notice has been given to such persons as the Court may consider entitled thereto.

(2) All persons to whom notice has been given by the direction of the Court, or who appear on the hearing of the motion, shall be deemed to be parties to the proceeding.

69 Every proceeding which may be commenced by originating motion may, if the applicant thinks fit, be commenced by way of action instead.

70 Applications under section 13 of the Niue Amendment Act (No 2) 1968 for the assessment of compensation shall be made by motion of the Cabinet or by any person claiming such compensation or any share thereof, and notice of such application shall be given to such persons interested as the Court directs.

71 Applications under Part 23 of the Niue Act 1966 for an affiliation order or maintenance order may be made by motion, with notice thereof to the defendant, except in cases in which the Court is authorised to hear the application *ex parte* under section 563 of the Niue Act 1966.

*Probate and Letters of Administration*

72 Probate of any will may be granted by the Court in form 7 in Schedule 2.

73 Letters of administration of the estate of an intestate may be granted by the Court in form 8 in Schedule 2.

74 Letters of administration with the will annexed may be granted by the Court in form 9 in Schedule 2.

75 The security to be given by an administrator may be in form 10 in Schedule 2.

76 In the case of a person residing out of Niue, administration, with or without a will annexed, may be granted to his attorney acting under a power of attorney.

77 (1) Every executor or administrator shall, within 12 months after the grant of probate or letters of administration, or within such further period as the Court on application may direct, lodge with the Registrar a full and distinct account in writing of his administration of the estate.

(2) The account shall be verified by affidavit.

78 If an executor or administrator makes default in filing such an account within the time aforesaid, or if any account so filed is insufficient, the Court may on the application of any person interested, or on the application of the Registrar, order the executor or administrator to file an account or a further account within such time as the Court in such order appoints, and disobedience to such order shall be a contempt of Court.

*Proceedings Under the Customs Act 1966*

- 79
- (a) Every penalty imposed by the Customs Act 1966 and recoverable in the High Court may be recovered by action in the name and on behalf of the Government of Niue as a debt due to the Crown.
  - (b) The High Court may give leave to serve out of Niue the summons in any action for the recovery of any such penalty or any duty under the Customs Acts.
  - (c) The judgment in an action for the recovery of any such penalty may be enforced by way of proceedings for contempt of the Court, and the failure of the defendant to satisfy such judgment shall constitute a contempt of Court accordingly.
  - (d) Any person imprisoned for such contempt shall be released from custody on satisfaction of the judgment.
  - (e) Proceedings for contempt shall not preclude any other method of execution which would otherwise be available.

80 Every prosecution in the High Court for an offence against the Customs Act 1966 shall be commenced by an information laid by an officer of Customs in accordance with the ordinary criminal procedure of the High Court.

81 Every person arrested in Niue for an offence against the Customs Act 1966 under section 267 of that Act shall be brought before a Judge or Commissioner of the High Court.

- 82
- (a) Proceedings in the Court under the Customs Act 1966 for the condemnation of goods seized as forfeited shall be instituted by way of motion by an officer of customs, anything in the Customs Act 1966 to the contrary notwithstanding.
  - (b) Notice of the proceedings shall be given to such persons and in such manner as the Court directs, and it shall be sufficient if public notice is given by advertisement or otherwise at or near the place of seizure.
  - (c) Any person claiming to be interested in the goods may appear to oppose the application, and shall thereby become a party to the proceedings.
  - (d) If any person appears to oppose the application the Court shall hear and determine the matter and acquit or condemn the goods, but if no person so appears judgment of condemnation shall be given.
  - (e) In this regulation "goods" includes any boat, vehicle, or other thing forfeited under the Customs Acts.

*Jurisdiction of Commissioners*

- 83 A Commissioner of the High Court shall have jurisdiction –
- (a) In actions for the recovery of any debt or damages not exceeding \$1,500 in amount;
  - (b) In actions for the recovery of chattels not exceeding \$1,500 in value;
  - (c) In criminal proceedings for any offence punishable by fine only;
  - (d) In criminal proceedings for any offence specified in Schedule 6;
  - (e) In civil proceedings under Part 23 of the Niue Act 1966.

**84** A Commissioner of the High Court shall not have power to impose any fine exceeding 2 penalty units or to impose any term of imprisonment exceeding one year, whatever may be the maximum fine or term of imprisonment provided by law for the offence.

**84A** (1) A Commissioner and two Justices of the Peace sitting together shall have jurisdiction for the purpose of entering a conviction and imposing sentence only in criminal proceedings in charges, other than those specified in rule 83 (c) and (d) punishable by imprisonment for terms not exceeding ten years and in respect of which a plea of guilty has been entered by any defendant.

(2) No such sentence imposed shall have any effect unless and until the same is either confirmed or varied by the Chief Justice under rule 84B.

**84B** (1) The Chief Justice shall within one month of the receipt by him of a copy of the sentence imposed under rule 84A duly verified by the Registrar of the seal of the Court together with such information as he may require –

(a) Confirm the sentences as imposed; or

(b) Vary the sentence either by reducing or increasing the same in which case the sentence as varied shall become the sentence of the Court; or

(c) Order a rehearing of the proceedings in respect of which the sentence has been imposed.

(2) The Chief Justice shall report in writing his decision on the certified copy of the sentence and transmit the same to the court of origin which will either cause the sentence as so confirmed or varied to be executed or grant a hearing if so ordered.

(3) Any sentence fixed under this rule shall be deemed to be a final judgment of the High Court for the purposes of article 55A of the Constitution.

**84C** (1) Pending sentence by the Court under rule 84A, the Court may remand the defendant at liberty or release him on bail subject to such conditions as it deems fit to appear for sentence when called upon by notice given not earlier than 48 hours of the date fixed for such purpose or remand him in custody pending sentence.

(2) Any period of remand in custody shall not be greater than 2 months.

**85** Save as aforesaid, a Commissioner or a Commissioner and two Justices of the Peace sitting together shall not exercise any of the powers or functions, whether judicial or administrative, of a Judge of the Court.

**86** In these Rules “Judge” includes a Commissioner of the High Court in respect of all matters within the jurisdiction of a Commissioner.

#### *Criminal Proceedings*

**87** An information of a criminal offence may be in form 1 in Schedule 4.

**88** The summons to the defendant in a criminal proceeding may be in form 2 in Schedule 4.

**89** The summons to a witness in a criminal proceeding may be in form 3 in Schedule 4.

90 A warrant issued by a Judge for the arrest of any person suspected of a criminal offence may be in form 4 in Schedule 4.

91 A warrant issued by a Judge of the Court for the arrest of an accused person may be in form 5 in Schedule 4.

92 A Judge's warrant for the committal for trial or the release on bail of a person arrested on suspicion of a criminal offence may be in form 6 in Schedule 4.

93 The recognisance to be entered into by a prisoner admitted to bail by a Judge may be in form 7 in Schedule 4.

94 Assessors in a criminal trial may be appointed by warrant in form 8 in Schedule 4.

95 A conviction may be formally drawn up and sealed in form 9 in Schedule 4.

96 A warrant of commitment to prison for default in the payment of a fine may be in form 10 in Schedule 4.

97 A search warrant may be in form 11 in Schedule 4.

98 The remuneration and allowances payable to an assessor in a criminal trial shall be such as the Court in each case thinks fit and directs, but shall not exceed \$3 per day in addition to travelling expenses actually incurred and paid.

99 The expenses of a witness at a criminal trial, to be certified by the Judge for payment out of Treasury, shall be such as the Judge thinks fit, not exceed \$3 a day in addition to travelling expenses actually incurred and paid.

#### *Miscellaneous*

100 There shall be payable in respect of proceedings in the Court the fees set forth in Schedule 5.

101 If it appears to the satisfaction of the Court that any party is unable or ought not to be called upon to pay any of the fees mentioned in Schedule 5, the Court may dispense with the payment or may reduce the amount .

101A In any appeal from the judgment of a Commissioner of the High Court to a Judge of the High Court –

- (a) If it appears to any Commissioner or Registrar of the Court, or to any Justices of the Peace acting together, that the appellant is unable to pay the fees payable in respect of the appeal, the Commissioner or Registrar or Justices of the Peace may dispense with the payment of the fees or may reduce the amount thereof;
- (b) If the appellant succeeds in his appeal, the fees paid by him shall be returned to him.

102 The Court or the proper officer thereof may refuse to take any step in the course of any proceedings until the proper fee therefor, together with all other fees already due and unpaid in respect of the same proceedings, have been fully paid.

**103** Such variations in the forms prescribed in the Schedules may be made as the circumstances of any particular case may require.

**104** All documents filed in or issued from the Court may be either in English or in Niuean.

**105** Non-compliance with any of these Rules shall not render the proceedings void, but the proceedings may be set aside, either wholly or in part, as irregular, or amended, or otherwise dealt with in such manner and on such terms as the Court may deem just.

**106** The jurisdiction of the Court in any proceeding may be exercised from time to time by any of the Judges of the Court and at any time or place, notwithstanding that the proceeding may not have been duly continued by adjournment from time to time or from place to place.

**107** (1) If at the time and place of trial stated in any summons or notice to a defendant or other party in any civil or criminal proceeding, or in any summons to a witness, or at the time and place to which the trial or hearing of any action, prosecution, or other proceeding has been adjourned, a Judge of the High Court is not present, a Registrar, if present, may adjourn the Court to another time and to the same or any other place.

(2) If within one hour after the time so stated in any such summons or notice, or appointed by any adjournment, a Judge is not present and no adjournment by the Registrar has taken place, the Court shall be deemed to be adjourned to the same place on the next succeeding day at the hour stated in the summons or notice, or at any other hour so appointed by adjournment, and so on.

(3) On every such adjournment the summons or notice shall have the same effect as if the time and place to which the Court is adjourned had been set forth in the summons or notice.

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SCHEDULES

SCHEDULE 1

In the High Court of Niue

Between A.B., of Niue, Plaintiff,  
and  
C.D., of Niue,  
Defendant.

The plaintiff claims the sum of \$20 due to him as the price of goods sold and delivered by him to the defendant, particulars whereof are as follows:

[Or]

The plaintiff claims \$100 as damages for an assault committed against him by the defendant on the ..... day of .....20 ....., at .....

[Or]

The plaintiff claims possession of certain chattels wrongfully detained by the defendant – namely,

. . . . .  
[Or]

The plaintiff claims the sum of \$200 as damages for a breach of contract committed by the defendant under the following circumstances: [Setting out the facts].

SCHEDULE 2

Form 1

SUMMONS TO A DEFENDANT

In the High Court of Niue

Between A.B., of.....,  
Plaintiff,  
and  
C.D., of.....  
Defendant.

You are hereby summoned to appear and defend this action at the trial thereof before the High Court on ....., the ..... day of ....., 20....., at .....o'clock in the .....noon, at [Place of trial]. A copy of the statement of claim is annexed.

To the above-named defendant.

[SEAL]

.....  
Registrar.

Form 2

SUMMONS TO WITNESS

In the High Court of Niue

Between A.B., of .....,  
Plaintiff,  
and  
C.D., of .....,  
Defendant.

You are hereby summoned to appear before the High Court at .....on .....the ..... day of ....., 20....., at .....o'clock in the .....noon, there to give evidence as to the matters in question in this action; and you are further required to bring with you and produce to the Court the following documents, namely:

Herein fail not at your peril.

[SEAL]

.....  
Registrar.

To.....

Form 3  
WRIT OF SALE

In the High Court of Niue

Between A.B., of .....  
Plaintiff,  
and  
C.D., of.....,  
Defendant.

You are hereby directed to make of the chattels of ....., the above-named defendant, the sum of ....., which the above-named plaintiff has recovered against him in this Court by virtue of a judgment given on the ..... day of ....., 20....., (together with interest upon the said sum at the rate of \$12 for every \$200 by the year from the said ..... day of ....., 20.....), and cause that money (with such interest as aforesaid) immediately after the execution hereof to be rendered to the said plaintiff.

Dated this.....day of ....., 20.....

[Seal]  
To [Officer of the Court or a constable].

.....  
Registrar.

Form 4  
WRIT OF POSSESSION

In the High Court of Niue

Between A.B., of .....  
Plaintiff,  
and  
C.D., of .....  
Defendant.

You are hereby directed to deliver to ....., the above-named plaintiff, possession of all that parcel of land being [*Here describe the land so as to identify it*], in pursuance of a judgment obtained in this Court by the said plaintiff against the said defendant on the ..... day of ....., 20.....

Dated the .....day of ....., 20 .....

[Seal]  
To [Officer of the Court or a constable]

.....  
Registrar.

Form 5  
MOTION FOR ORDER FOR PAYMENT OF JUDGEMENT DEBT

In the High Court of Niue

Between A.B., of .....  
Judgment creditor,  
and  
C.D., of.....  
Judgment debtor.

The above-named judgment creditor makes application for an order under section 94 of the Niue Act 1966 for the payment by the above-named judgment debtor of the sum of ....., for which judgment was obtained in this Court on the .....day of ....., 20....., and which is still unpaid.



Form 6  
JUDGMENT SUMMONS

In the High Court of Niue

Between A.B., of .....  
Judgment creditor,  
and  
C.D., of .....  
Judgment debtor.

Take notice that you are hereby summoned to appear before this Court at .....on  
....., the .....day of ....., 20....., at  
.....o'clock in the .....noon, to show cause why an order under  
section 94 of the Niue Act 1966 should not be made against you for the payment of the  
sum of ..... due by you to the above-named judgment creditor under a  
judgment obtained against you in this Court on the .....day of .....,  
20.....

For disobedience to any order which may be so made against you you will be liable to  
imprisonment.

[SEAL]  
To the above-named judgment debtor.

.....  
Registrar

Form 7  
PROBATE

In the High Court of the Niue

In the matter of the will of ....., deceased.

Be it known to all men that on this .....day of ....., in the year  
20....., the last will and testament of ....., deceased, a copy of which is hereunto  
annexed; has been exhibited, read, and proved before this Court and administration of  
the estate of the deceased has been and is hereby granted to ....., the executor  
in the said will and testament named, being first sworn faithfully to execute the same.  
Given under the seal of the High Court of Niue at ....., this .....  
day of .....20 .....

[SEAL]

.....  
Registrar.

Form 8  
LETTERS OF ADMINISTRATION WITHOUT A WILL

In the High Court of Niue

In the matter of the estate of ....., deceased intestate.  
To....., widow [or as the case may be] of deceased.

Whereas the said .....lately departed this life intestate: You are therefore by  
these presents constituted administrator of the estate of the said deceased, you having  
been first sworn well and faithfully to administer the same.  
Given under the seal of the High Court of Niue at ....., this .....day  
of ..... 20.....

[SEAL]

Form 9  
LETTERS OF ADMINISTRATION WITH THE WILL ANNEXED

In the High Court of Niue

In the matter of the will ....., deceased.  
To....., widow [or as the case may be] of deceased.

Whereas the said .....lately departed this life leaving a will which has been  
duly proved in this Court and a coy of which is annexed: and whereas no executor is  
named in that will [or the executors named in that will have not applied for probate]: you

are therefore by these presents constituted administrator with the will annexed of the estate of the said deceased, you having been first sworn well and faithfully to administer the same.

Given under the seal of the High Court of Niue at ....., this ..... day of ....., 20.....

[SEAL]

Form 10  
ADMINISTRATION BOND

In the High Court of Niue

In the matter of the estate of ....., deceased.

Know all men by these presents that we .....are held and firmly bound unto the Registrar of the High Court at Niue in the sum of ....., for which payment well and truly to be made to the aid Registrar we do and each of us does bind ourselves and each of us, and the executors and administrators of us and of each of us, jointly and severally, firmly by these presents.

Whereas by order of this Court of the ..... day of .....20....., it is ordered that letters of administration of the estate of ....., deceased, be granted to the said ..... on his giving security for the due administration thereof: and whereas .....has sworn that to the best of his knowledge and belief the said estate is under the value of \$.....

Now, the condition of the above-written bond is that if the above-bounden .....well and truly administers the said estate according to law and renders to this Court a true and just account of his administration on or before the .....day of .....20....., then this bond shall be void and of none effect, but otherwise shall remain in full force.

Signed the ..... day of ....., 20....., in the presence of -

.....

SCHEDULE 3  
FORMS OF MOTIONS

In the High Court of Niue

In the matter of the will of A.B., of ..... deceased.

The applicant, C.D., of ....., claims probate of the will of the above-named deceased, who died at .....on the .....day of ....., 20....., on the ground that he is the executor named in the said will.

[Or]

In the High Court of Niue

In the matter of A.B., a minor.

The applicant, C.D., of ....., claims the custody of A.B., a minor, on the ground that the minor is the child of the applicant and that possession of the minor is wrongfully detained by E.F. of .....

[Or]

In the High Court of Niue

In the matter of A.B., a prisoner.

The applicant, A.B., of ....., claims release from detention in the prison at ....., on the ground that he is there detained unlawfully under a warrant issued without jurisdiction.

[Or]

In the High Court of Niue

In the matter of A.B., a person of unsound mind.

The applicant, C.D., Chief Medical Officer of Niue, claims an order committing the said A.B. to medical custody on the ground that he is of unsound mind.

[Or]

The applicant, A.B. of ....., claims a maintenance order against the defendant in favour of the applicant and her children, on the ground that the defendant, being the husband of the applicant, has failed to provide her and her children with adequate maintenance.

SCHEDULE 4  
Form 1  
INFORMATION

In the High Court of Niue

Between A.B. Informant,  
and  
C.D., Defendant.

INFORMATION

A.B., of ....., comes before me ....., a Judge of this Court, and informs me (on oath) that he has just cause to suspect and does suspect that C.D., of ....., did on the ..... day of ....., 20....., at ....., steal [*Describe the article stolen*], being the property of E.F. and of a value not exceeding \$4 [or not exceeding \$100, or exceeding \$100]; and also that the said C.D. did, on the .....day of ....., 20....., at ....., break and enter the dwellinghouse of E.F. with intent to commit theft therein.

[*Signature of Informant.*]

Taken before me, at ..... this ..... day of ....., 20.....  
.....

A Judge of the High Court.

Form 2  
SUMMONS TO ACCUSED

In the High Court of Niue

Between A.B., Informant,  
and  
C.D., Defendant.

Whereas an information has been laid against you by the above-named informant that on the ..... day of ....., 20....., at ..... you did [*Setting our charge as stated in information*]:

You are therefore summoned to appear before this Court on ....., the ..... day of ....., 20....., at ..... o'clock in the ..... noon, at [*Place of trial*], there to answer the charge so made against you.

Dated this ..... day of ..... 20.....

.....

[Seal]

Judge of the High Court.

To the above-named defendant.

Form 3  
SUMMONS TO WITNESS IN CRIMINAL PROCEEDINGS

In the High Court of Niue

Between A.B., Informant,  
and  
C.D., Defendant.

Whereas an information has been laid against the above-named defendant that on the ..... day of ....., 20....., at ....., he did [*Setting out charge as in information*]: And whereas it has been made to appear to me that you are able to give evidence relative to the charge so made.

You are therefore hereby summoned to appear before the High Court on ....., the ..... day of ....., 20....., at ..... o'clock in the ..... noon, at [*Place of trial*], there to testify what you know concerning the said charge [and you are hereby required to bring with you and produce to the Court the following documents, namely .....].

Herein fail not at your peril.

.....  
Judge [*or Registrar*] of the High Court.

[SEAL]

To [*Name and description of witness*]

Form 4  
MAGISTRATE'S WARRANT FOR ARREST OF ACCUSED

Whereas it has been made to appear to me that C.D., of ....., is justly suspected of the murder of E.F. [*or of having stolen the goods of E.F., or otherwise setting out the offence*]:

You are therefore hereby authorised and directed forthwith to arrest the said C.D. and bring him before a Judge of the High Court of Niue, there to be dealt with according to law; and for so doing this shall be your warrant.

Dated this..... day of ..... 20.....

.....  
Cabinet [*or Registrar*  
of the High Court, or Medical  
Officer, *or as the case may be*]

To all constables in Niue.

Form 5  
JUDGE'S WARRANT FOR ARREST OF ACCUSED

In the High Court of Niue  
Between A.B., Informant  
and  
C.D., Defendant

Whereas information has been laid against the above-named defendant that on the ..... day of ....., at....., he did [*Setting out charge as in information*]:

You are hereby required and authorised to arrest the said defendant and bring him forthwith before a Judge of this Court, there to answer the charge so made against him, and for so doing this shall be your warrant.

Dated this ..... day of ....., 20.....

[SEAL]

.....  
Judge of the High Court.

To all constables in Niue.

Form 6  
WARRANT FOR COMMITMENT TO PRISON OR RELEASE ON BAIL

Whereas A.B. has been brought before me in custody charged with the offence of stealing the goods of C.D. [*or as the case may be*]:

Now, therefore, I hereby commit the said A.B. to the prison at ....., there to await his trial for the said offence before the High Court of Niue.

[Or]

Now, therefore, I hereby admit the said A.B. to bail, with two sureties [*or as the case may be*] in the sum of \$..... to appear before the High Court of Niue at the next sitting of that Court held by a Judge thereof [*or by a Commissioner thereof*] in the place of..... for trial for the said offence.

Dated this ..... day of ....., 20.....

Cabinet [*or Registrar*  
of the High Court, or Medical  
Officer, *or as the case may be.*]

Form 7

RECOGNISANCE OF PRISONER ADMITTED TO BAIL

Know all men by these presents that we [Defendant and his sureties] are held and firmly bound unto the Government of Niue in the sum of \$....., for which payment to be well and truly made to the Government of Niue we do and each of us doth bind ourselves and each of us, and the executors and administrators of us and of each of us, jointly and severally, firmly by these presents.

Whereas the above-named defendant has been arrested on a charge of ....., and has been admitted to bail to await his trial for that offence before the High Court of Niue.

Now, therefore, the condition of this bond is that if the said defendant appears before the said Court in due course for trial for the said offence at the next sitting of the said Court held by a Judge thereof [or by a Commissioner thereof] in the place of ....., then this bond shall be void and of no effect, but otherwise shall remain in full force.

Signed this .....day of ....., 20.....

[SEAL]

.....  
Judge.

Form 8

WARRANT OF APPOINTMENT OF ASSESSORS

In the High Court of Niue

Between A.B., Informant,  
and  
C.D., Defendant.

Whereas C.D. is accused in this Court of the murder of E.F. [or as the case may be]: And whereas (in pursuance of an order made by this Court in that behalf) the trial of the said accused must take place before assessors:

Now, therefore, I do hereby appoint as assessors for the said trial the persons following, being duly qualified by law in that behalf.....

Dated this .....day of ....., 20.....

.....  
[SEAL]

.....  
Judge.

Form 9

CONVICTION

In the High Court of Niue

Between A.B., Informant,  
and  
C.D., Defendant.

Be it remembered that on the ..... day of ....., 20....., at ....., C.D., ....., is convicted before this Court ..... on the information of A.B., ....., for that on the ..... day of ....., 20....., at ....., he did [Set out the offence]; and it is adjudged that the said C.D. for his said offence shall be imprisoned in the prison at ..... for the space of .....

Given under my hand and the seal of the said Court, the day and year first above written.

[SEAL]

.....  
Judge of the High Court.

Form 10

WARRANT OF COMMITMENT FOR DEFAULT IN PAYMENT OF FINE

In the High Court of Niue

Between A.B., Informant,  
and  
C.D., Defendant.

Whereas on the ..... day of ....., 20....., the above-named defendant was convicted in this Court of the offence of ....., and sentenced to pay a fine of .....: And whereas the said fine remains unpaid:

It is ordered that the said defendant be imprisoned for the term of ..... from the date of this order, or until the said fine shall be sooner paid.

Dated this ..... day of ....., 20.....

[SEAL]

.....  
Judge.

Form 11

SEARCH WARRANT

Whereas it has been made to appear to me, on the oath of A.B., that there is reasonable ground for believing that there are in the dwellinghouse of C.D. (*or as the case may be*) at ..... certain goods in respect of which an offence has been committed against the Customs Act 1966 (*or as the case may be*):

Now therefore, I hereby authorise you to search such dwellinghouse for such goods and to seize the same and bring them before me; and for so doing this shall be your warrant.

Dated this ..... day of ....., 20.....

.....  
Officer of Customs [*or as the case may be*]

To E.F., Constable.

SCHEDULE 5

COURT FEES

*Civil Proceedings*

1 In Actions where a sum of money or any property is claimed—

Sum of Money or Value of the Land or Chattel Claimed	Not	Not	Not	Not	Not	Not
	Exceeding \$20	Exceeding \$40	Exceeding \$100	Exceeding \$200	Exceeding \$500	Exceeding \$500
(1) Filing statement of claim and issue of summons	0.30	0.50	1.00	1.50	2.00	2.00
(2) Filing counterclaim (on amount of counterclaim)	0.20	0.30	0.50	0.76	1.00	1.25
(3) Hearing or rehearing and judgment (on claim or counterclaim)	0.30	0.50	1.00	1.50	2.00	2.50

2 In all other actions and proceedings	\$
(1) Filing and hearing statement of claim and issue of summons	1.00
(2) Service of any summons, notice, or other process	0.20
(3) For each additional summons in any proceedings	0.20
(4) Sealing of any judgment, order, writ of execution, or other document (other than a summons)	0.30
(5) Copy of any document or notes of evidence – per folio of 72 words (minimum 3 folios)	0.10
(6) Filing of any notice or motion, affidavit, petition (other than a petition for divorce), or other document	0.30
(7) Hearing of any motion or petition (other than a petition for divorce)	0.50
(8) Filing petition for divorce or nullity of marriage and supporting affidavit	1.00

(9) Hearing of petition for divorce or nullity of marriage	2.00
(10) Stating case for High Court	2.00
(11) Hearing application for leave to appeal to High Court	1.00
(12) Sealing order granting leave to appeal to High Court	2.00
(13) Filing motion for probate or letters of administration	1.00
(14) Sealing any probate or letters or administration	
Where the net value of the estate does not exceed \$1,000	2.00
Where the net value of the estate exceeds \$1,000 but does not exceed \$2,000	2.10
Where the net value of the estate exceeds \$2,000	4.00
(15) Execution of any writ of execution or warrant	0.30
No fees shall be payable in proceedings under Part 23 of the Niue Act 1966	

*Criminal Proceedings*

No fees shall be payable in any criminal proceedings commenced by the information of a constable or any other employee of the Niue Public Service.

In all other cases a fee of \$1 shall be payable on the information. If the accused is convicted, the fee so paid shall be refunded to the informant.

*Appeals from Commissioners of the High Court (Whether in Civil or Criminal Proceedings)*

	\$
(1) Filing notice of appeal	0.50
(2) Hearing of appeal	1.00
No fees shall be payable in respect of appeals in proceedings commenced by a constable or any other employee of the Niue Public Service.	

SCHEDULE 6

Rule 83 (d)

Commissioners of the High Court shall have jurisdiction in all or any of the following criminal offences specified in the following sections of the Niue Act 1966:

130	188	223
150	192 (1) (a) and (b)	224
152	194	225
153	198	226
155	199	227
157	200	
160	201	
166	202	
167	203	
168	206	
173	210	
174	211	
175	213	
176	214	
177	215	
178	216	
179	217	
182	218	
183	219	
185	220	
186	221	
	222	

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**HIGH COURT RULES AMENDMENT NO. 2**

## APPEALS FROM COMMISSIONERS

**1** Any party to any proceedings, whether civil or criminal, before a Commissioner of the High Court may appeal from the judgment of the Commissioner to a Judge of the High Court.

**2** (1) Notice of appeal shall be filed in Court within 21 days after the delivery of the judgment appealed from.

(2) Any written notice which shows an intention or desire to appeal shall be sufficient.

**3** Upon the filing of such notice, the Commissioner shall, unless a Judge makes an order to the contrary, grant a stay of execution of the judgment appealed from, and if the appellant is in custody shall release him therefrom on bail pending the determination of the appeal.

**4** Any person so released on bail may at any time and for any reason that a Judge thinks sufficient be arrested by warrant and committed to prison there to undergo his sentence.

**5** Any period during which an appellant has been so at large on bail shall not be computed as part of any term of imprisonment to which he has been sentenced.

**6** Every such appeal shall be by way of rehearing.

**7** Before hearing any appeal a Judge may impose such conditions as he shall think fit as to security for costs of the appeal or for performance of the judgment thereon.

**8** If the appellant does not with due diligence prosecute his appeal, or perform or observe any of the conditions imposed by a Judge as mentioned in clause 7, a Judge may dismiss the appeal; and the costs thereof, and any security entered into by the appellant, shall be dealt with in such manner as the Judge directs.

**9** (1) The appellant may at any time before hearing discontinue his appeal, either wholly or as to any ground thereof, by filing in Court a notice of discontinuance.

(2) If the appeal is wholly discontinued, the judgment appealed from may immediately be carried into effect.

**10** The Commissioner may at any stage of the proceedings adjourn any case for hearing and determination by a Judge.

**HIGH COURT RULES AMENDMENT NO. 3**

**1** These are the High Court Rules 1916 Amendment No 3 and shall be read together with and deemed part of the High Court Rules 1916 (the principal rules).

**2** [Spent]

## PROCEEDINGS FOR DIVORCE OR NULLITY OF MARRIAGE

**3** In these Rules "respondent" includes all co-respondents so far as the provision in which the term occurs is applicable to them.

4 (1) Every proceeding for a decree of divorce or nullity of marriage shall be commenced by filing a petition in the Court.

(2) The petition shall be in accordance with form 1 in Schedule 1 and shall set out the grounds for divorce or nullity of marriage.

5 Every person seeking a decree of divorce or of nullity of marriage shall append to the petition an affidavit in form 2 in Schedule 1, verifying the same so far as the deponent is able to do so.

6 (1) There shall be annexed to every petition and every copy thereof a summons to the respondent in accordance with form 3 in Schedule 1 and the original shall be filed in the Court.

(2) (a) The summons shall specify, *inter alia*, the sitting of the Court fixed by the Registrar for the hearing of the petition.

(b) In making that fixture the Registrar shall take into account the distance of the place of residence of the respondent from the place where the petition is to be heard and all other relevant circumstances, and the sitting so fixed shall not without leave of the Court be on a date less than 21 days from the date of filing of the petition.

7 (1) Service of a petition shall be effected by personally delivering to each respondent a copy of the petition under seal of the Court with a copy, signed by the Registrar, of the summons to the respondent required by these Rules to be annexed to the petition.

(2) Personal service shall in no case be effected by the petitioner, but the petitioner may be present when such service is effected.

(3) A petition for a decree of divorce or nullity of marriage may be served out of Niue by leave of the Court.

8 (1) Each respondent who resides within Niue may, within 14 days after service of the petition on him or her, file an answer thereto. Where a respondent resides beyond Niue, the time after service within which he or she may file an answer to the petition shall, on application by the petitioner, be fixed by the Court.

(2) An answer shall be in accordance with form 4 in Schedule 1.

9 A respondent who fails to file an answer within the time hereinbefore prescribed, or within any extended time allowed for that purpose, shall not be entitled to be heard on the petition, without leave of the Court, granted on such terms as the Court thinks fit, except on questions of costs, custody of children, or maintenance.

10 (1) Where a respondent intends to apply for relief, the answer of that respondent shall conclude with a prayer for the relief to which he or she claims to be entitled.

(2) An answer may be amended by leave of the Court, by adding such a prayer at or before the trial.

11 The Court may at any time order further particulars to be given of any matters pleaded.

12 (1) (a) Every application for custody of children or for maintenance shall be to the Court by notice under form 5 in Schedule 1.

(b) Any such application may be made by a respondent, whether or not he or she has filed or intends to file an answer to the original petition.

(2) An order for custody of children may be made upon the hearing of any petition in which a prayer for such custody is contained, without the necessity of complying with the requirements of subclause (1).

(3) Where the parties are agreed upon the terms of any order granting custody of children or maintenance, the order may, by consent of the parties, be included in the decree, without the necessity of complying with the requirements of subclause (1).

13 Any application to the Court, or to a Judge, whether in Court or Chambers, not required to be made by petition or by notice of application for custody of children or for maintenance, may be made by motion.

14 In matters for which no specific provision is made in this Part in respect of matrimonial causes, the general provisions of the principal Rules providing for the conduct of actions before the High Court, as far as they are applicable and with the necessary modifications shall apply.

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SCHEDULE

FORMS IN PROCEEDINGS FOR DIVORCE OR NULLITY OF MARRIAGE

Rule 4

Form 1

In the High Court of Niue

(In Divorce)

Between A.B., of .....[Occupation], Petitioner,  
and C.D., of .....[Occupation], Respondent

PETITION

The petitioner prays for a divorce from the respondent on the following grounds:

[Here state the grounds for divorce.]

Dated this .....day of .....20.....

.....  
Signature of Petitioner

Rule 5

Form 2

In the High Court of Niue

(In Divorce)

Between A.B., of .....[Occupation], Petitioner,  
and C.D., of .....[Occupation], Resondent.

I, A.B., of .....[Occupation], make oath and say –

- 1 I am applying for a divorce from my wife (husband) named: [Full name].
  - 2 We were married at ..... by ..... of the .....Church,  
on the .....day of .....19.....
  - 3 There are .....children of the marriage, namely: [Full names].
  - 4 The grounds upon which I am applying for the divorce are: [Set out grounds],  
and the following are the facts concerning the same: [Set out proof fully].
  - 5 I am a native of .....and the said .....is a native of .....
- Sworn at .....by the above-named A.B. this .....day of  
.....20.....

A Solicitor of the High Court  
(or A Registrar of the High Court.)  
(or A Postmaster.)  
(or A collector of customs.)  
(or A medical officer)

Rule 6 (1)

Form 3

In the High Court of Niue

(In Divorce)

Between A.B., of ..... [Occupation], Petitioner,  
and C.D., of .....[Occupation], Respondent.

SUMMONS

You are hereby summoned, if you wish to defend these proceedings, to appear at the trial thereof before the High Court at .....at the first sitting of this Court for the trial of civil proceedings after the expiration of ..... days from but exclusive of the date of service upon you of the petition in these proceedings.

A copy of the petition and of the supporting affidavit in these proceedings is annexed hereto.

Dated this..... day of .....20.....

(SEAL)

.....  
Registrar.

To the above-named Respondent.

Rule 8 (2)

Form 4

In the High Court of Niue

(In Divorce)

Between A.B., of .....[Occupation], Petitioner,  
and C.D., of .....[Occupation], Respondent

Answer

I, C.D., .....of .....[Occupation], the above-named respondent, make oath and say –

- 1 I was this day served with a petition for divorce and affidavit in support thereof.
- 2 I admit (or deny) the charges made against me in the petition and affidavit. [*Or set out which are admitted or denied.*]
- 3 I (do not) object to a divorce being granted.
- 4 I wish the children to remain the custody of .....

Sworn at ..... by the above-named A.B. this ..... day of .....20.....

A Solicitor of the High Court  
(or A Registrar of the High Court).  
(or A Postmaster.)  
(or A collector of customs.)  
(or A medical officer.)

Form 5

In the High Court of Niue

(In Divorce)

Between A.B., of .....[Occupation], Petitioner,  
and C.D., of .....[Occupation], Respondent.

Application for Custody of Children (or Maintenance)

Take notice that the Petitioner (Respondent) intends to apply to the Court for an order for the custody of the children of the marriage (or for a maintenance order against the Respondent (Petitioner)).

Dated this .....day of .....20.....

.....  
Petitioner (Respondent).

To the above-named Respondent (Petitioner).

## HIGH COURT RULES AMENDMENT No. 5

**1** These are the High Court Rules 1916, Amendment No. 5 and shall be read together with and deemed part of the High Court Rules 1916 and its amendments.

**2** The Commissioner of the High Court shall have jurisdiction in all or any of the offences specified hereunder –

- (1) The Niue Act 1966, s188 (in cases to which s192(1)(a) and (b) apply) and s193 (1);
- (2) Section 39 of the Transport Act 1965;
- (3) Any other offences contained in any law for which the maximum term of imprisonment provided does not exceed 3 years.

**3** (1) In any proceeding commenced before a Commissioner exercising jurisdiction conferred on him by rule 2 the Commissioner may, at any time before the defendants have been sentenced or otherwise dealt with, decline to deal further with the offence and require that it shall be dealt with by a Judge and may endorse on the information a certificate to that effect.

(2) If the defendant is being convicted or has pleaded guilty the Commissioner shall remand him for sentence by a Judge and for that purpose, if it is expedient and in the interest of justice so to do, may make an order accordingly under these Rules.

(3) In any other case, the Judge will deal with the case in all respects as a rehearing.

## LAND COURT RULES 1969

1969 – 1 November 1969

<p>1 Title</p> <p>2 Interpretation</p> <p>3 [Spent]</p> <p>4 Forms</p> <p>5 Attestation</p> <p>6 Failure to comply with rules</p> <p>7 Service of notices</p> <p>8 Court office</p> <p>9 Court records</p> <p>10 Times and places of sittings</p> <p>11 Cancelling, opening and adjourning sittings</p> <p>12 Commencement of proceedings</p> <p>13 Register of applications</p> <p>14 Annexure of documents to applications</p> <p>15 Definitions of person under disability</p> <p>16 Application on behalf of a person under disability</p> <p>17 Guardian <i>ad litem</i></p> <p>18 Restrictions on persons under the age of 16 years and on persons of unsound mind</p> <p>19 Registrar to give notice</p> <p>20 No notice required for <i>ex parte</i> applications</p> <p>21 Court may direct that notice be given</p> <p>22 Attendance of Clerk of the Court</p> <p>23 Persons affected by applications</p> <p>24 Senior Judge to preside at sitting of Land Court</p>	<p>25 Recording proceedings</p> <p>26 Powers of Court</p> <p>27 Evidence of witnesses</p> <p>28 Expenses of witnesses</p> <p>29 Summons to witness</p> <p>30 Application for rehearing</p> <p>31 Submission of drafts of orders</p> <p>32 Form of order</p> <p>33 Amendment of defects</p> <p>34 Amendment of records</p> <p>35 Costs</p> <p>36 Security for costs</p> <p>37 Charging orders for costs</p> <p>38 Powers and duties of Chief Justice in relation to notices of appeal</p> <p>39 Appeal from Commissioner</p> <p>40 Withdrawal of appeal</p> <p>41 Appeals to be by way of rehearing</p> <p>42 Court of Appeal</p> <p>43 Exemptions from payment of fees</p> <p>44 Scale of fees</p> <p>45 Reduction and remission of fees</p> <p>46 Certified and sealed copies</p> <p>47 Arrangement of business</p> <p>48 Matters not provided for</p> <p style="text-align: right;">SCHEDULES</p>
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**1 Title**

These are the Land Court Rules 1969.

**2 Interpretation**

(1) In these Rules –

“Act” means the Niue Act 1966;

“applicant” includes an appellant;

“application” includes a notice of appeal;

“Court” means the High Court or the Court of Appeal as the case may require;

“Commissioner” means a Commissioner of the High Court;

“Judge” means a Judge of the High Court or a Judge of the Court of Appeal as the case may require;

“party” means any person who has made an application to the Court; and includes any person whose rights or interests are affected by an application or by any order made pursuant to an application; and also includes any *Leveki Mangafaoa* or trustee in respect of any such person;

“Registrar” means a Registrar of the High Court or of the Court of Appeal as the case may require, and includes a Deputy Registrar.

(2) A reference to a numbered form is a reference to the form so numbered in Schedule 1.

3 [Spent]

#### 4 **Forms**

(1) The forms set out in Schedule 1 shall be used with such modifications as the case may require, and, if no form is prescribed by these rules, such form shall be used as a Judge or the Registrar may direct or approve.

(2) In any case an equivalent form in the Niuean language may be used, and shall be sufficient.

#### 5 **Attestation**

Where these rules require that the signature of any person to any application or other document shall be attested, that signature must be attested by any person mentioned in section 720 of the Act.

#### 6 **Failure to comply with rules**

A failure to comply with these rules shall not render any proceedings void unless the Court so directs; but any such proceedings may be set aside, either wholly or in part, as irregular, or may be amended or otherwise dealt with in such manner and upon such terms as the Court may direct.

#### 7 **Service of notices**

(1) (a) Subject to rules 12(5)(f), 23(2) and 29(4) a notice or other document required or authorised by these Rules to be served on any person may be delivered to him either personally or, where that person is in Niue, by posting it by letter to that person at his last-known place of abode or business in Niue.

(b) A notice or other document so posted shall be deemed to have been served at the time when the letter would in the ordinary course of post be delivered.

(2) (a) If the person is absent from Niue, the notice or other document may be delivered as aforesaid to his agent in Niue.

(b) If he is deceased, the notice may be delivered as aforesaid to his personal representative in Niue.

(3) If the person is not known, or is absent from Niue and has no known agent in Niue, or is dead and has no personal representative in Niue, the notice or other document shall be delivered in such a manner as may be directed by an order of a Judge.

(4) Notwithstanding rule 7(1)-(3), a Judge may in any case make an order directing the manner in which a notice or document (other than a summons to a witness to show cause) is to be delivered, or dispensing with the delivery.

#### 8 **Court office**

(1) There shall be an office of the Court situated at such place in Niue as Cabinet appoints.

(2) The Court office shall be open for business from 10am to 3pm on every day, not being a Saturday, Sunday, or Court holiday.

(3) The administration work of the Court shall be carried out at the Court office.



## 9 Court records

The records and other documents of the Court shall be deposited and kept at the Court office in the custody of the Registrar and, except as provided in these rules, none of those records or other documents shall be taken out of the Court office save with the leave or pursuant to the direction of a Judge.

## 10 Times and places of sittings

(1) The Court shall sit at such times and places as the Chief Justice appoints.  
 (2) The Registrar shall cause the times and places of the sittings of the Court to be duly and conveniently advertised in the *Gazette*.

(3) Notwithstanding paragraphs (1) and (2), a sitting of the High Court may be held at any time and place appointed by a Judge, without notice of that sitting being given in the *Gazette* by the Registrar, but no matter shall be heard or determined at any such sitting other than a matter of which due notice has been given to the parties or which, under the Act or these Rules, may be heard and determined *ex parte*.

## 11 Cancelling, opening, and adjourning sittings

(1) The Chief Justice may, at any time before the commencement of any sitting of the Court, cancel the sitting.

(2) Any Judge, or any person authorised in that behalf by a Judge, may open a sitting of the Court.

(3) After the opening of any sitting of the Court, the presiding Judge or, in his absence, any person authorised in that behalf by him, may adjourn the sitting or any part of the business notified to be dealt with at the sitting, either *sine die* or to some other time or place.

(4) The Registrar shall give notice of any cancellation or adjournment made under this rule to such persons and in such manner as a Judge may direct.

(5) Any matter adjourned *sine die* may be heard at such time and place and upon such notice to the parties and others as a Judge may direct.

## 12 Commencement of proceedings

(1) All proceedings in the High Court shall be commenced by application.

(2) An application to the High Court shall be in form 1.

(3) All proceedings in the Court of Appeal shall be commenced by notice of appeal.

(4) A notice of appeal shall be in form 2, and shall be attested.

(5) Every application shall be in writing, and shall set forth, in a legible fashion –

- (a) The full names, address, and occupation of the applicant;
- (b) Each statutory provision, section of the Act and rule in reliance upon which the application is made;
- (c) The nature of the order sought by the applicant;
- (d) The grounds on which the application is made;
- (e) The full names of the person filing the application;
- (f) An address, in Niue, at which notices and other documents relating to the application may be served on the applicant, which address shall, for the purposes of rule 7 (1) be deemed to be the last-known place of business in Niue of the applicant.

(6) Every application shall be signed by the applicant or his duly authorised agent.

(7) Every *ex parte* application shall be marked “*ex parte*”.

(8) An application shall be filed by delivering it at the Court office to the Registrar, or to some other officer of the Court duly authorised in writing by the Registrar to receive it.

(9) No application for the partition of Niuean land shall be heard or determined by the Court until all previous partition orders made with respect to the same land have been sealed and signed.

(10) Every application shall have annexed thereto all documents that are, by the provisions of any Act required to be filed with the application.

(11) An application for an interlocutory injunction may be made *ex parte*.

(12) Any party to any proceedings may apply *ex parte* to the Court for an interlocutory order for directions or with reference to any other interlocutory matter in the proceedings.

(13) If, in the opinion of the Registrar, an application is not properly made, he may refuse to accept it, unless he is directed by a Judge to accept it.

### **13 Register of applications**

(1) The Registrar shall keep a register of applications.

(2) The Registrar shall cause to be recorded in the register and upon each application accepted by him –

(a) The date on which the application was filed;

(b) The date on which any fee payable in respect of the filing of the application was paid.

(3) The Registrar shall cause a distinctive number to be inscribed on each application, and that number shall correspond with the number of the application in the register.

### **14 Annexure of documents to applications**

The Registrar shall cause to be endorsed on or annexed to each application all such particulars and extracts from the records of the Court as may be necessary, in his opinion, to enable the Court to deal effectively with the application at the hearing of the application.

### **15 Definition of person under disability**

(1) In this rule and in rules 16 and 17, “person under disability” means –

(a) Any person who is under the age of 16 years; or

(b) Any person who is unable, wholly or partly to manage his own affairs by reason of –

(i) his age; or

(ii) his physical or mental infirmity; or

(iii) his intemperate or recklessly extravagant habits; or

(iv) his improvidence; or

(c) Any person who is of unsound mind; or

(d) Any person who is in prison or other place of detention; or

(e) Any other person who is, or whose interests are, in the opinion of a Judge, in need of special care and protection which that person is unable himself personally to provide.

**16 Application on behalf of a person under disability**

- (1) (a) Any person who desires to make an application to the Court on behalf of a person under disability may apply *ex parte* to a Judge for an order that the applicant be appointed the agent of the person under disability to make the application on behalf of the person under disability.
- (b) With any application for such an order there shall be filed a draft of the application which the agent (if appointed) desires to make on behalf of the person under disability.
- (2) On the hearing of any such application for appointment, the Judge may, by order –
- (a) Refuse the application; or
- (b) Grant the application upon such conditions as to the liability of the agent for the costs of the person under disability, the giving of security for those costs, or otherwise, as the Judge thinks fit, and the agent shall not act on behalf of the person under disability contrary to those conditions and shall, on filing any application on behalf of the person under disability, be bound by those conditions.
- (3) Where –
- (a) An application has been filed by an agent duly appointed under this rule on behalf of a person under disability; and
- (b) That person, on ceasing to be a person under disability, elects himself to proceed with the application –

that person shall be liable for all the costs of the proceedings in the same manner as if he himself had commenced them after ceasing to be a person under disability.

(4) An application made by an agent on behalf of a person under disability shall be attested and shall be made in the name of the agent, but the agent shall state, in the application, that he is making it on behalf of the person under disability.

**17 Guardian *ad litem***

(1) A Judge may (whether on application made to him *ex parte*, or of his own motion, or otherwise) make an order appointing a guardian *ad litem* for any person under disability whose interests are affected by any application not filed by or on behalf of the person under disability.

(2) A guardian *ad litem* so appointed shall not be personally liable for costs unless they are occasioned by his person negligence, dishonesty, or other misconduct.

(3) No person shall be appointed a guardian *ad litem* without his written consent.

**18 Restrictions on persons under the age of 16 years and on persons of unsound mind**

No person who is under the age of 16 years or of unsound mind shall, otherwise than with the leave of a Judge –

- (a) Make any application to the Court or act as a party to any proceedings in the Court, otherwise than by and through an agent or guardian *ad litem* appointed pursuant to rule 16 or rule 17; or
- (b) Act as an agent or representative in or with respect to any proceedings in the Court on behalf of any other person.

**19 Registrar to give notice**

(1) Subject to any directions of a Judge, the Registrar shall give in the *Gazette* at least 14 clear days' notice of the hearing of an application.

(2) The Registrar shall also give, in writing, at least 3 clear days' notice of the date of the commencement of the sitting of the Court at which an application is intended to be heard to –

- (a) The applicant; and
- (b) Every person who has filed a notice of intention to appear; and
- (c) Such other persons as the Registrar thinks fit; and
- (d) Such other persons as a Judge may direct.

(3) All such notices shall be in a form and contain such particulars as a Judge or the Registrar thinks necessary.

**20 No notice required for *ex parte* applications**

Notwithstanding any other provision of these Rules, an application which may be made *ex parte* may, in his discretion, be heard and determined by a Judge, without notification, at any time and place specified by a Judge.

**21 Court may direct that notice be given**

The Court may, before hearing or proceeding further with the hearing of an application, require the Registrar or the applicant or any other party to the proceedings to give such notice as the Court thinks necessary to any persons who appear to the Court to be affected by the application.

**22 Attendance of Clerk of the Court**

(1) The Registrar shall arrange for the attendance, at every sitting of the Court, of a Clerk of the Court.

(2) The Clerk of the Court shall, unless the Court otherwise directs, be a skilled interpreter of the Niuean language into the English language and vice versa.

(3) The Registrar shall transmit all applications, to be heard at a sitting of the Court, together with all other documents ancillary thereto and the necessary Court records, to the Clerk of the Court, who shall be responsible for their custody and safety and shall, as and when required, produce them to the Court.

**23 Persons affected by applications**

(1) Any person interested in or who may be affected by any application shall be entitled to appear and be heard on the application.

(2) (a) Any person who is not named in an application and who wishes to be a party to and be heard on the application shall, before the commencement of the hearing of the application, file in the Court office or in the Court a written notice in form 3 of his intention to appear, stating whether he supports or opposes the application and setting forth the grounds of any such support or opposition, and specifying an address in Niue at which notices and other documents relating to the application may be served on him, which address shall, for the purposes of rule 7 (1) be deemed to be his last-known place of business in Niue;

(b) No such person shall be debarred from appearing and being heard on an application by reason only of his failure to file a notice of intention to appear; but any person who has so failed shall be allowed to appear and be heard on the application subject to such reasonable and proper conditions as the Court thinks fit to impose.

- (c) The Crown, the Minister, or the Registrar shall be entitled to appear and be heard on any application without filing or giving any notice of intention to appear.
- (3) (a) Subject to rule 18 any person entitled to appear in any proceedings in the Court may appear either personally or, with the leave of the Court, by an agent or representative;
- (b) Such leave may be given on such terms as the Court thinks fit, and may at any time be withdrawn.

#### **24 Senior Judge to preside at sitting of Land Division**

If more than one Judge is present at a sitting of the Court, the senior Judge present shall preside.

#### **25 Recording proceedings**

The Judge or, if more than one Judge is present, one of the Judges nominated by the presiding Judge, shall record the proceedings of the Court in a minute book, which book shall be a record of the Court.

#### **26 Powers of Court**

(1) The Court may dismiss or grant any application, in whole or in part, or, upon such terms as the Court thinks fit, give leave to extend, amend, or withdraw an application, in whole or in part.

(2) The Court may dismiss an application on the grounds of the non-appearance of the applicant or for want of proper prosecution, but any such dismissal shall be without prejudice to the right of the applicant to make a fresh application in respect of the same matter, or to the power of the Court to reinstate an application so dismissed.

(3) Every order or decision made by the Court shall be recorded in the minute book referred to in rule 25.

#### **27 Evidence of witnesses**

(1) Unless the Court otherwise directs, the evidence of witnesses at the hearing of an application shall be given orally and upon oath or affirmation.

(2) The Court may accept evidence given by affidavit or declaration.

(3) Affidavits to be filed in the Court shall –

(a) If made in Niue, be made under section 78 (1) of the Act as if they were affidavits in the High Court;

(b) If made outside Niue, be made under the same rules as are in force for the time being with respect to affidavits in the High Court of New Zealand.

(4) Declarations to be filed in the Court shall –

(a) If made in Niue, be made in accordance with section 720 of the Act;

(b) If made outside Niue, be made in accordance with the Oaths and Declarations Act 1957 of New Zealand relating to declarations.

(5) The Court, in its discretion and on such terms as it thinks fit as to costs or otherwise, may in any proceedings where it appears necessary make an order for the examination on oath or affirmation before any officer of the Court or before the Maori Land Court of New Zealand or a Judge thereof or before any other person or persons, and at any place either in or out of New Zealand, of any witness or other person, and may order any deposition so taken to be filed in the Court as evidence in the proceedings.



**28 Expenses of witnesses**

A witness shall be allowed such reasonable expenses and allowances as the Court thinks fit to award.

**29 Summons to witness**

(1) Any party to any proceedings shall be entitled to apply *ex parte* to a Judge for an order that a summons to a witness be issued by the Court.

(2) A summons to a witness shall be in form 4, and may be addressed to any number of persons not exceeding three.

(3) Every such summons shall be signed by a Judge or the Registrar and shall be dated and shall be under the Seal of the Court.

(4) (a) Notwithstanding anything in these rules, service of any such summons shall be personal.

(b) A Judge may direct that service of a summons (other than service of a summons to show cause) in any particular case may be made in such other manner as will, in his opinion, be sufficient to bring the summons to the knowledge of the person to be served.

(5) Personal service of such a summons may be effected by leaving with the witness a true copy of the summons, sealed with the Seal of the Court, and it shall not be necessary to produce the original summons to the person served.

(6) Such a summons shall be served by –

(a) An officer of the Court; or

(b) A constable; or

(c) A person duly authorised in writing in that behalf by the person who applied for the order under which the summons was issued; or

(d) Such other person as a Judge or the Registrar specifies in writing.

(7) Unless the Judge otherwise directs in writing, there shall be paid or tendered to a witness at the time of the service of a summons (other than a summons to show cause) upon him, or at a reasonable time before the day on which he is ordered to attend the Court, such reasonable sum of conduct money as is specified in the summons by the Judge making the order granting the issue of the summons, to enable the witness to go to, stay at, and return from the place of hearing.

(8) Service of a summons may be proved on affidavit or, at the hearing, on oath.

(9) A summons to a witness to show cause shall be in form 5.

(10) Notwithstanding the foregoing provisions of this rule, a Judge may, without application and of his own motion, direct that a summons to a witness shall be issued.

**30 Application for rehearing**

No application under section 45 of the Niue Amendment Act (No 2) 1968 for a rehearing shall be made after the expiration of 14 clear days after the making of the order or determination in the matter in respect of which the rehearing is sought.

**31 Submission of drafts of orders**

The Court or the Registrar may require any party in whose favour an order has been made to submit a draft of the order to the Registrar.

**32 Form of order**

- (1) An order shall be in form 6, unless the Court otherwise directs.
- (2) The form of an order shall be finally settled by a Judge or the Registrar.
- (3) Every order shall have annexed thereto such plans and other documents as the Court may require.
- (4) Every order shall be under the hand of a Judge or the Registrar and the Seal of the Court.
- (5) Duplicates of all orders shall be kept in and form part of the records of the Court, and all duplicates of orders shall be marked "duplicate".
- (6) No order shall be issued out of the Court to the person entitled, other than an order in favour of the Crown, the Minister, Cabinet or the Registrar until all Court fees, other fees, duties, charges, and other money payable in respect thereof have been duly paid.
- (7) It shall be the duty of the Registrar, without any unnecessary delay, to draw up and complete as far as possible all orders made by the Court.
- (8) Nothing in these Rules shall restrict the power of the Court to make interlocutory orders in respect of any matter as to which the Court is empowered to make a final order.
- (9) Where any order of the Court of Appeal makes provision for the payment of any sum of money or for the imposition of any charge, then, for the purposes of enforcing that provision or charge, the order shall be deemed to be an order of the High Court.

### **33 Amendment of defects**

- (1) The Court shall have power in the course of any proceedings, and whether with or without the application of any party, to amend all defects or errors in the proceedings, whether there is anything in writing to amend or not, and whether or not the defect or error is that of a party applying to amend.
- (2) All such amendments may be made on such terms as the Court thinks fit, and all amendments shall be made which are necessary for exercising as fully and beneficially as possible the jurisdiction of the Court.

### **34 Amendment of records**

- (1) A Judge may at any time make or authorise to be made in any order, warrant, record or other document made, issued, or kept by the Court all such amendments as he considers necessary to give effect to the intended determination or decision of the Court or to record the actual course and nature of any proceedings in the Court.
- (2) Any such amendment shall take effect as at the date of the order, warrant, record, or other document amended, but no such amendment shall take away or affect any right, title, or interest acquired in good faith and for value before the making of the amendment.

### **35 Costs**

In any proceedings the Court may make such order as it thinks fit for the payment of the costs thereof, or of any matters incidental or preliminary thereto, by or to any person who is a party to the proceedings, whether the parties by and to whom all costs are so made payable are parties in the same or different interests.



**36 Security for costs**

(1) In any proceedings and at any stage the Court may require any party to deposit with the Registrar or the Clerk of the Court or any other person specified by the Court any sum of money as security for costs, and, in default of that deposit being made, the Court may stay the proceedings, either wholly or in respect of the party so in default.

(2) When any sum has been so deposited as security for costs, it shall be disposed of in such manner as the Court directs.

(3) Notwithstanding any other provision of these Rules, neither the Crown, nor the Minister, nor Cabinet, nor the Registrar shall in any case be liable to give security for costs in respect of any application to or proceeding in the Court.

**37 Charging orders for costs**

(1) Where in any proceedings any order is made by the Court affecting or relating to Niuean land, the Court may, in addition to or instead of making an order under rule 35 make an order charging the whole or any part of those costs on the rents, revenues, income, or profits arising or to arise from the land or upon the share of any person in any such rents, revenues, income, or profits.

(2) Any such order shall be deemed to be a deed of assignment, valid and effectual in all respects, enuring for the person in whose favour the order is made.

**38 Powers and duties of Chief Justice in relation to notices of appeal**

(1) (a) The Registrar, on receiving a notice of appeal, shall forthwith transmit it, or a true copy thereof duly certified by the Registrar as being such a copy, to the Chief Justice.

(b) On receipt thereof, the Chief Justice may, in his discretion and without the necessity of hearing parties, if he is of the opinion that the grounds of appeal are insufficiently stated in the notice, direct that a more explicit statement of such grounds be lodged by the appellant with the Registrar within a time to be fixed by the Chief Justice, to be computed from and including the day on which notice of the direction is given to the appellant.

(c) The Registrar shall forthwith give notice in writing of the direction to the appellant accordingly.

(2) (a) On the receipt of a notice of appeal or a true copy thereof, the Chief Justice shall, in his discretion and without hearing parties, decide whether security for the costs of the appeal shall be given by the appellant.

(b) If he decides that such security shall be given, he shall fix the amount thereof and the time within which the security shall be given, that time to be computed from and including the day on which notice of the requirement of security is given to the appellant.

(c) The Registrar shall forthwith give notice in writing of the requirement to the appellant accordingly.

(3) Security for the costs of an appeal shall in all cases be given by depositing the amount in money with the Registrar, or any other person specified by the Chief Justice.

(4) (a) Should the appellant fail to lodge a more explicit statement of grounds of appeal or fail to give security for costs under this rule, the Chief Justice may, on application by any person interested in the appeal or of his own motion, make an order dismissing the appeal or an order enlarging the time in which the appellant shall lodge a more explicit statement of grounds of appeal or give security for costs.

- (b) The Registrar shall give notice in writing of any such order to the appellant accordingly.
- (5) (a) If, within the time enlarged as aforesaid, the appellant fails to lodge a more explicit statement of grounds of appeal or fails to give security for costs paragraph (4) shall apply;
- (b) Should an appellant not lodge a more explicit statement of the grounds of appeal or give security for costs within a period of 2 years computed from and including the date on which he was first given notice in that regard by the Registrar, the appeal shall be deemed to have been heard and finally dismissed by the Court.

### **39 Appeal from Commissioner**

(1) Any party to any proceedings before a Commissioner may appeal from any order or decision of the Commissioner to a Judge of the High Court.

(2) Every such appeal shall be by way of an application in form 1 to the High Court, and shall be filed in the Court office within 28 clear days after the date of the order or decision appealed from.

(3) On the filing of such an appeal, the Commissioner shall, unless a Judge otherwise orders, stay further proceedings on the order or decision appealed from.

(4) Every such appeal shall be by way of rehearing.

(5) Before hearing an appeal, a Judge may impose such conditions on the appellant as the Judge thinks fit as to security for costs or otherwise.

(6) If the appellant fails to prosecute the appeal with due diligence, or fails to observe or perform any of the conditions imposed on him under paragraph (5), the Judge may dismiss the appeal.

(7) (a) The appellant may, at any time before the hearing of the appeal, discontinue his appeal, either wholly or in part, by filing in the Court a notice of discontinuance.

(b) If an appeal is wholly discontinued, the order or decision may be immediately carried into effect and the appeal shall be deemed to have been dismissed under paragraph (6) and the Court shall give directions as to the disposal of any sum deposited as security for costs.

(8) A Commissioner may at any stage of any proceedings before him adjourn the proceedings for hearing and determination by a Judge.

(9) No appeal from an order or decision of a Commissioner shall, save with the leave of the Court or the Court of Appeal, be brought in the Court of Appeal.

### **40 Withdrawal of appeal**

(1) Without limiting rule 39, an appellant may before the hearing of his appeal by notice in writing given to the Registrar, or at any time after the hearing has begun by oral application made in open Court, apply to the Court for leave to withdraw his appeal.

(2) Leave to withdraw an appeal may be given on such terms as the Court thinks fit to impose, and the Court shall, in granting such leave, give directions as to the disposal of any sum deposited as security for costs.

(3) Any appeal so withdrawn shall be deemed to have been finally dismissed by the Court.

(4) This rule shall apply to –

(a) Any appeal from an order or decision of a Commissioner;

(b) Any appeal to the Court of Appeal.

**41 Appeals to be by way of rehearing**

- (1) All appeals to the Court of Appeal shall be by way of rehearing.
- (2) (a) On the hearing of any appeal the parties shall be restricted to the evidence adduced at the hearing upon which the order or decision appealed from was made.
  - (b) The Court of Appeal may allow such further evidence to be adduced as may in its opinion be necessary to enable it to come to a just decision upon the matters in issue.
  - (c) The Court of Appeal may refer to any record or other document filed or held in the records of the Court although the same may not have been produced or referred to at the hearing in the High Court.
- (3) The evidence adduced at the hearing upon which the order or decision appealed from was made shall be proved by the records of the High Court, and no other proof thereof, except by leave of the Court of Appeal shall be admitted.

**42 Court of Appeal**

(1) On the hearing of an appeal to the Court of Appeal no person other than the appellant shall, except with the leave of the Court, be heard in support of the appeal or put forward any claim contrary to the order or decision appealed from, and no other person shall be heard save a person who satisfies the Court that he is a person interested in the proceedings.

(2) No appeal shall be allowed on any ground not set out in the notice of appeal, or in a more explicit statement of the grounds of appeal, or in an amended statement of the grounds of appeal, unless the Court is of the opinion that the appeal may be so allowed without injustice to all other parties interested in the appeal.

**43 Exemptions from payment of fees**

(1) No fee shall be payable on any application by the Crown, the Minister, Cabinet, or the Registrar.

(2) No fee shall be payable on the filing of a notice of intention to appear referred to in rule 23.

**44 Scale of fees**

(1) Subject to rule 43, there shall be paid in respect of the matters described in Schedule 2 the fees set out there.

(2) Subject to rule 45, no document shall be filed in the Court without the leave of a Judge or the Registrar unless the prescribed fee has been paid.

**45 Reduction and remission of fees**

The Court or a Judge may reduce or remit any fee.

**46 Certified and sealed copies**

Unless otherwise directed by a Judge, the Registrar, upon payment of the fee prescribed in Schedule 2, shall furnish to any person applying for the same a certified or sealed copy of any order or document made by or filed or lodged in the Court.

**47 Arrangement of business**

The Court may arrange the order of its business as it thinks fit.

**48 Matters not provided for**

In any matter for which no provision is made by these Rules, the Court may proceed as it thinks fit, and shall dispose of the matter as nearly as may be in accordance with any rules affecting any similar case or, if there be no such rules, in such manner as the Court thinks best calculated to promote the ends of justice.

\_\_\_\_\_  
SCHEDULES

SCHEDULE 1  
FORM 1

Rule 12 (1)

(EX PARTE) APPLICATION TO THE HIGH COURT

Number \_\_\_\_\_

IN THE HIGH COURT OF NIUE

IN THE MATTER OF

I,

of

HEREBY APPLY for an ORDER  
UPON THE GROUNDS:

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_  
This application is made in reliance upon

\_\_\_\_\_  
Applicant (Agent for Application).  
Witness (where rule 16(4) applies) \_\_\_\_\_

Fee: \$ \_\_\_\_\_

This application was filed by \_\_\_\_\_

And notices and other documents relating to this application may be served on the applicant at \_\_\_\_\_

For Court use only.

Initials

1. Date of filing of application: \_\_\_\_\_

2. Date fee paid: \_\_\_\_\_

3. Notes: \_\_\_\_\_

FORM 2

Rule 12 (4)

NOTICE OF APPEAL

Number \_\_\_\_\_

IN THE COURT OF APPEAL  
OF NIUE

IN THE MATTER OF

I,

of

GIVE NOTICE that I hereby APPEAL from the order or decision of the High Court, which order or decision is set out in the Schedule herein enforced or hereto annexed, UPON THE GROUNDS:

AND upon those grounds, I HEREBY APPLY to the Court of Appeal for an ORDER

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

This notice of appeal is given in reliance upon

SCHEDULE

Appellant (Agent for Appellant)

Fee: \$15.00

Witness: \_\_\_\_\_

This notice of appeal was filed by

And notices and other documents relating to this appeal may be served on the appellant at

For Court use only.

Initials

1. Date of filing of notice of appeal: \_\_\_\_\_

2. Date fee paid: \_\_\_\_\_

3. Notes: \_\_\_\_\_

FORM 3

Rule 23 (2)

NOTICE OF INTENTION TO APPEAR

Number \_\_\_\_\_

IN THE COURT OF APPEAL  
OF NIUE

IN THE MATTER of Rule 23 of the Land  
Rules 1969

AND

IN THE MATTER of an application (appeal)  
by  
for

I,

of

claiming to be interested in or affected by the above-mentioned  
application (appeal) HEREBY GIVE NOTICE that I intend to appear in support of  
(opposition to) the same UPON THE GROUNDS:

Dated this            day of            20

Claimant.

Address for service:

No fee.

For Court use only.

Initials

1. Date of filing of notice: \_\_\_\_\_

2. Notes: \_\_\_\_\_

FORM 4

Rule 29 (2)

SUMMONS TO WITNESS

Number \_\_\_\_\_

IN THE COURT OF APPEAL  
OF NIUE

IN THE MATTER of Rule 29 of the Land Rules  
1969

AND

IN THE MATTER of an application (appeal) by  
for

To:

of

YOU ARE HEREBY SUMMONED to attend the \_\_\_\_\_ Court  
at \_\_\_\_\_ on the \_\_\_\_\_ of \_\_\_\_\_ 20 \_\_\_\_\_ at the hour  
of \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, and from day to day until  
required, to give evidence in the above matter and YOU ARE HEREBY REQUIRED then  
and there to have and produce to the Court all the documents mentioned in the Schedule  
hereto, and all other documents of whatsoever nature relating to that matter in your  
possession, custody, or control. Should you fail to obey this summons, you will be liable,  
for that failure, to such punishment or penalty as is by law provided, if there was paid or  
tendered to you, in accordance with the abovementioned role, conduct money in the sum  
of \$

THIS SUMMONS was issued at the request of \_\_\_\_\_  
AS WITNESS the hand of the Judge (Registrar) (Deputy Registrar) and the Seal of the  
Court this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

SCHEDULE

Judge (Registrar) (Deputy Registrar)

I, \_\_\_\_\_ a Judge of the above-mentioned  
Court hereby direct, pursuant to rule 29(4) of the Rules of the Court, that service of this  
summons may be effected in the following manner, namely, by

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
Judge

I,

of

make oath and say that I served the above-named \_\_\_\_\_ with  
a summons, of which the copy of the summons upon which this affidavit is endorsed is a  
true copy, by delivering it to him (her) personally at \_\_\_\_\_

20

on the \_\_\_\_\_ day of \_\_\_\_\_

at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon and that at the same  
time I paid (tendered) to him (her) the amount of the conduct money specified in the  
summons.

SWORN by the above-mentioned \_\_\_\_\_

at

this \_\_\_\_\_ day of \_\_\_\_\_

20 \_\_\_\_\_ before me:

FORM 5

Rule 29 (5)

SUMMONS TO WITNESS TO SHOW CAUSE  
IN THE COURT OF APPEAL  
OF NIUE

IN THE MATTER of Rule 29 of the Land  
Rules 1969

AND

IN THE MATTER of an application  
by  
for

To:

of

YOU ARE HEREBY SUMMONED to attend the Court  
at on the day of 20  
at o'clock in the noon, to SHOW CAUSE why you should  
not be dealt with according to law for your failure to observe the provisions of a summons  
dated the day of 20

Issued in the matter of the above-mentioned application and duly served upon you:  
AND TAKE NOTICE that if you fail to observe this summons the matter may be  
determined in your absence.

AS WITNESS the hand of the Judge (Registrar) (Deputy Registrar) and the Seal of the  
Court this day of 20

\_\_\_\_\_  
Judge (Registrar) (Deputy Registrar)

I, of  
make oath and say that I served the above-named

with a summons, of which the copy of  
the summons upon which this affidavit is endorsed is a true copy by delivering the same  
to him (her) personally at on  
the day of 20 at o'clock in the  
noon

SWORN by the above-mentioned

at  
this day of  
20 before me:





17	Certified copies	
	(1) Of any instrument or extract from Register	10.00
	(2) Of any page or part thereof supplied by photocopy or any processed reproduction	
	(1) A4	1.00
	(2) Foolscap	2.00
18	Provisional and final plans	
	Prov A3	5.00
	Final A2	10.00
19	Survey charge deposit – for redefining boundaries of titled land, missing posts, etc.	30.00
20	Registration of incorporated societies	30.00

## LAND REGISTRATION REGULATIONS 1969

1969 – 1 November 1969

- |  |  |
|--|--|
| <ol style="list-style-type: none"> <li>1. Title</li> <li>2. Interpretation</li> </ol>  | <ol style="list-style-type: none"> <li>22 Certified copies of instruments to be evidence</li> </ol>  |
| <p><b>PART 1</b><br/>ADMINISTRATION</p>  | <p><b>PART 3</b><br/>POWER OF ATTORNEY</p>   |
| <ol style="list-style-type: none"> <li>3 Duties of Registrar</li> <li>4 Land Registry</li> <li>5 Land Register</li> <li>6 Journal and index to be kept</li> <li>7 Instruments</li> <li>8 Correction of errors in Land Register</li> </ol>  | <ol style="list-style-type: none"> <li>23 Power of attorney may be deposited with Registrar</li> <li>24 Revocation of power of attorney</li> </ol>   |
| <p><b>PART 2</b><br/>REGISTRATION</p>  | <p><b>PART 4</b><br/>SEARCHES</p>  |
| <ol style="list-style-type: none"> <li>9 Presentation of instruments for registration</li> <li>10 Registrar may refuse to register any instrument</li> <li>11 Registration as to part of land affected</li> <li>12 Alterations or erasures in instruments</li> <li>13 Instrument not to be altered</li> <li>14 Instruments executed by an attorney or representative</li> <li>15 Procedure for registration of instruments</li> <li>16 Priority according to time of presentation for registration</li> <li>17 Instruments to be in duplicate</li> <li>18 Memorial to be recorded on duplicate instrument</li> <li>19 Registrar may dispense with production of duplicate instruments</li> <li>29 Receipt may be given for instruments presented for registration or deposit</li> <li>21 Persons having an estate or interest in land may be required to register any instruments</li> </ol> | <ol style="list-style-type: none"> <li>25 Searches</li> <li>26 Single search</li> <li>27 General search</li> <li>28 Assistance to persons searching</li> </ol>   |
|  | <p><b>PART 5</b><br/>CAVEATS</p>   |
|  | <ol style="list-style-type: none"> <li>29 Caveats to be signed by caveator, attorney, or authorised representative</li> <li>30 Caveator may except certain instruments</li> <li>31 Service of notice as to caveats</li> <li>32 Person lodging caveat without due cause liable for damages</li> <li>33 Caveat may be withdrawn</li> </ol> |
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|  | <ol style="list-style-type: none"> <li>34 Mergers</li> <li>35 Registrar to have and use seal of office</li> <li>36 Forms</li> <li>37 Fees</li> </ol>   |
|  | <p><b>SCHEDULES</b></p>  |

- 1 Title**  
These are the Land Registration Regulations 1969.
- 2 Interpretation**  
  - (1) In these Regulations –  
“Act” means the Niue Act 1966;  
“dealing” means every transfer, transmission, charge, lease, encumbrance, or other alienation or transaction affecting any land or interest in any land under these Regulations;  
“endorsement” in addition to its ordinary meaning, includes anything written on or at the foot of any document for giving effect to any of the purposes of these Regulations;

“instrument” means any printed or written document, map, plan or other dealing affecting any land or interest in any land;

“register” means enter in the Land Register under these Regulations;

“Registrar” means the Registrar of the High Court, and includes a Deputy Registrar.

(2) A reference to a numbered form is a reference to a form so numbered in Schedule 1.

(3) Expressions defined in this Act have the meanings so defined.

## PART 1

### ADMINISTRATION

#### 3 Duties of Registrar

The Registrar shall be responsible for the work to be carried out in the Land Registry.

#### 4 Land Registry

There shall be a Land Registry established in the High Court Office, which shall be open daily for public business from 10am to 3pm except on Saturdays and public holidays.

#### 5 Land Register

(1) The Registrar shall keep books comprising and to be called the Land Register.

(2) The number of parcels or subdivisions of land which may be included in one folium of the Land Register shall be at the absolute discretion of the Registrar.

(3) The Registrar shall record on each folium the particulars of all instruments, dealings, and other matters by these Regulations required to be registered or entered on the Land Register.

#### 6 Journal and index to be kept

In addition to the Land Register provided for by regulation 5, the Registrar shall keep the following –

(a) A journal, in which shall be entered particulars of all instruments received for registration, referring to them by number in the order in which they are so received for registration, the volume and folio of the Land Register against which such instrument is to be registered and such other particulars and references as he thinks fit;

(b) An alphabetical index, in which shall be entered appropriate references to every power of attorney or other instrument deposited in the Land Registry.

#### 7 Instruments

(1) All instruments for registration or entry on the Land Register must be legibly and clearly written, typewritten or printed on sheets of paper of foolscap size of good quality. Carbon copies of instruments shall not be filed. A margin of not less than one-eighth of the width of the paper shall be on the left side.

(2) The Registrar may waive the requirements of this regulation in whole or in part.

**8 Correction of errors in Land Register**

(1) Where a mistake has been made in the Land Register, the Registrar shall rectify the mistake by a new entry in such form as may be convenient, specifying the day and hour of each correction, and initialling the correction.

(2) The erroneous entry shall in no case be erased or obliterated.

**PART 2****REGISTRATION****9 Presentation of instruments for registration**

(1) Every instrument presented for registration shall have endorsed thereon –

- (a) The names of the parties; and
- (b) The nature of the instrument; and
- (c) A reference to the appropriate volume and folio of the Land Register; and
- (d) Such other particulars as the Registrar may consider necessary.

(2) No registration of any instrument shall be invalidated by non-compliance with this regulation.

**10 Registrar may refuse to register any instrument**

The Registrar may refuse to register any instrument on the grounds –

- (a) That it is invalid according to law; or
- (b) That it is subject to any material defect, error or omission; or
- (c) That it is not made subject to any existing registered encumbrance, estate, or interest; or
- (d) That for any other reason it is incapable of complete registration.

**11 Registration as to part of land affected**

(1) Notwithstanding anything in regulation 10, an instrument may be accepted for registration as to part only of the land affected if a request for such partial registration is endorsed thereon and signed by the person presenting the instrument for registration.

(2) A partially registered instrument may, at the like request and on payment of the requisite fees, be re-registered as to the remainder or any other part of the land affected thereby.

**12 Alterations or erasures in instruments**

(1) The Registrar may refuse to register any instrument containing an erasure or alteration.

(2) Mistakes should be corrected by deleting the words or figures written in error and writing the correct words or figures above them.

(3) Where any correction, interlineation, or addition affects or could affect the interests of the persons executing the instrument, it should be initialled by those persons and by the attesting witnesses. Where it affects or could affect the interests of the persons receiving the benefit under the transaction, it should be initialled by those persons.

**13 Instrument not to be altered**

(1) Except where authorised by the Registrar or a Judge of the High Court, no alteration whatever shall be allowed to be made to any application or instrument during retention thereof in the Land Registry.

(2) No alteration whatever may be made in any instrument after it has been registered.

**14 Instruments executed by an attorney or representative**

(1) Any instrument executed by one person on behalf of another as his attorney or authorised representative shall be accompanied by a statutory declaration to the effect that he has not received any notice or information of the revocation of his power of attorney or certificate of representation by death or otherwise.

(2) That statutory declaration shall be made immediately before or immediately after the execution of the instrument.

(3) No such declaration shall be necessary in the case of a legally irrevocable power of attorney, unless the power is irrevocable for a fixed time therein specified and that time has expired at the date of execution of this instrument.

**15 Procedure for registration of instruments**

(1) Upon the acceptance of any instrument for registration, the Registrar shall number the instrument and make a note thereon of the day and hour of the receipt, and enter the same in the journal.

(2) The Registrar shall thereupon cause a memorial thereof to be entered in the appropriate volume and folio of the Land Register. The memorial shall state –

(a) The number and nature of the instrument; and

(b) The name of each person taking any benefit under the instrument; and

(c) The date and hour of the production of the instrument for registration; and

(d) Such other particulars as the Registrar considers expedient.

(3) Every memorial shall be signed by the Registrar.

(4) The original instrument shall, wherever possible, be filed and retained in the Land Registry.

**16 Priority according to time of presentation for registration**

Every instrument shall be registered in the order of time in which it is presented for registration.

**17 Instruments to be in duplicate**

Every instrument presented for registration shall (except in the case of an order of the High Court or the Court of Appeal) be in duplicate.

**18 Memorial to be recorded on duplicate instrument**

(1) Whenever a memorial of any instrument has been entered in the Land Register, the Registrar shall record the like memorial on the duplicate lease or other instrument evidencing title to the estate or interest intended to be dealt with or in any way affected, unless the Registrar, as hereinafter provided, dispenses with the production of that duplicate.

(2) The Registrar shall endorse on every instrument so registered a certificate of the date and hour on which the said memorial was entered in the Land Register, and shall authenticate each such certificate by signing his name and affixing his seal thereto.

(3) Every such certificate shall be received in all courts as conclusive evidence that the instrument has been duly registered.

**19 Registrar may dispense with production of duplicate instruments**

(1) The Registrar may dispense with the production of any duplicate of any instrument.

(2) (a) Where production has been dispensed with as aforesaid, then, upon the registration of any dealing, the Registrar shall notify in the memorial in the Land Register that no entry of that memorial has been made on the duplicate instrument, and every other dealing shall thereupon be as valid and effectual as if the memorial had been so entered.

(b) Before registering any such dealing the Registrar shall give at least 28 clear days' notice in the *Gazette* of his intention to register the dealing.

**20 Receipt may be given for instruments presented for registration or deposit**

Every person by whom any instrument is brought or sent to the Land Registry for the purpose of registration or deposit may require a receipt for the instrument, which receipt shall be signed by the Registrar or some officer of the Land Registry duly authorised in writing in that behalf by the Registrar, and shall specify the nature and number of the instrument and the day and hour when it was received by the Registrar.

**21 Persons having an estate or interest in land may be required to register any instruments**

Any person having an estate or interest in land through any instrument authorised to be registered by these Regulations or any other enactment may require any person having possession of that instrument to cause it to be registered. If he fails or refuses to do so, any Judge of the High Court may, on application to him, make such order respecting the registration of the instrument and the costs thereof as he thinks fit.

**22 Certified copies of instruments to be evidence**

The Registrar, upon payment of the prescribed fee, shall furnish to any person applying for the same a certified copy of any registered instrument affecting land, and every such certified copy signed by him and sealed with his seal, shall be received in evidence for all purposes for which the original instrument might be put in evidence.

**PART 3****POWER OF ATTORNEY****23 Power of attorney may be deposited with Registrar**

(1) The proprietor of any land or any person claiming any estate or interest in any land may, by power of attorney in form 1, and either in general terms or specially, authorise and appoint any person on his behalf to execute instruments therewith, or to make an application to the Registrar or to a Judge of the High Court in relation thereto.

(2) Every power of attorney intended to be used under these Regulations, or a duplicate or attested copy thereof, verified to the satisfaction of the Registrar, shall be deposited with the Registrar.

(3) Any power of attorney made or used under these Regulations shall not be invalidated by reason of the power not having been created under seal.

(4) No memorial shall be made in the Land Register in respect of any power of attorney deposited in the Land Registry.



**24 Revocation of power of attorney**

(1) The donor of any revocable power of attorney may, by notice to the Registrar in form 2, revoke the power of attorney, either wholly or as to the land specified in the notice.

(2) No power of attorney shall be deemed to have been revoked by reason only of a subsequent power of attorney being deposited without express notice as aforesaid, nor shall any such revocation take effect as to instruments executed before the reception of the notice by the Registrar.

(3) No power of attorney shall be deemed to have been or to be revoked by the bankruptcy or insolvency of the grantee or by the marriage of a female grantee.

(4) When any instrument of revocation is deposited, the Registrar shall thereupon note on the power of attorney a minute of the revocation and record the same in the alphabetical index.

PART 4  
SEARCHES

**25 Searches**

(1) On payment of the prescribed fees any person may search the Land Register, the journal, the alphabetical index, and all registered and deposited instruments and plans at any time when the Land Registry is open for public business.

(2) (a) For the purpose of assessing such fees, every search shall be deemed to be completed on the day on which it is commenced.

(b) The Registrar may allow a search not completed on one day to be completed on the following or a subsequent day without further fee.

**26 Single search**

A single search shall be deemed to include –

(a) The inspection of any one folium of the Land Register and of all registered instruments and plans referred to therein.

(b) The inspection of any one registered or deposited instrument or plan without reference to any particular folium of the Land Register.

**27 General search**

A general search shall be deemed to include inspection of any number of folios of the Land Register in the name of one proprietor with the relative instruments and plans.

**28 Assistance to persons searching**

Reasonable assistance may be afforded by the Registrar and his staff to any person searching, but no search may be made by the Registrar or his staff except by special arrangement previously approved by Cabinet and no responsibility shall be incurred by the Registrar or his staff for the accuracy of any information obtained by any such search.

## PART 5

## CAVEATS

**29 Caveats to be signed by caveator, attorney, or authorised representative**

(1) Every caveat shall be signed by the caveator or by his attorney or duly authorised representative, and shall state with sufficient certainty the nature of the right, title, estate, or interest claimed by the caveator, and shall appoint a place or give an address in Niue at which notices and proceedings relating to the caveat may be served or addressed.

(2) Every caveat shall be entered on the appropriate folium of the Land Register as of the day and hour of the reception thereof by the Registrar.

(3) A caveat shall be in form 3 or form 4, as the case may require.

(4) The Registrar may enter a caveat –

(a) To protect the rights of any person beneficially interested under any trust, the existence of which trust is known to the Registrar; or

(b) To protect the rights of any person where consent is required to any dealing with land, the existence of which rights is known to the Registrar; or

(c) To protect the rights of any person who is an infant, or of unsound mind, or who is absent from Niue; or

(d) To protect the rights of the Crown; or

(e) To prevent any fraudulent or improper dealing.

(5) So long as a caveat remains in force, the Registrar shall not register any instrument presented for registration after the lodging of the caveat and affecting the estate or interest (at law or in equity) protected by the caveat.

(6) Upon the receipt of any caveat, the Registrar shall (if possible) notify in writing the existence of the caveat to the proprietor against whose estate or interest the caveat has been lodged.

(7) (a) Any such proprietor may make an application to the High Court for an order that the caveat be removed.

(b) The High Court shall not make any such order unless it is satisfied that under the rules of the Court, the caveator or his attorney or duly authorised representative has been served with a copy of the application.

(8) On the hearing of any such application, the proprietor shall be entitled to such an order unless the caveator establishes to the satisfaction of the Court, that the caveat should not be removed.

(9) On making any such order, the Court may direct that the caveat be wholly or partly removed, or removed only for certain purposes, and either unconditionally or subject to such conditions as the Court considers proper.

**30 Caveator may except certain instruments**

A caveator may except from the operation of a caveat any instrument or class of instruments, and such a caveat shall not prevent the registration of any instrument or class of instruments so specifically excepted.

**31 Service of notice as to caveats**

Every notice relating to a caveat and any proceedings in respect thereof, if served at the place appointed in the caveat or forwarded through the Post Office by registered letter addressed as aforesaid, shall be deemed duly served.

**32 Person lodging caveat without due cause liable for damages**

(1) Any person lodging any caveat without reasonable cause is liable to make to any person who may have sustained damage thereby such compensation as may be just.

(2) Such compensation shall be recoverable in an action in the Court by the person who has sustained damage from the person who lodged the caveat.

(3) This regulation shall not apply to a caveat lodged by the Registrar.

**33 Caveat may be withdrawn**

Any caveat may be withdrawn by the caveator or by his attorney or duly authorised representative under a written authority, and either as to the whole or any part of the land affected, or the consent of the caveator or of his attorney or authorised representative may be given for the registration of any particular dealing expressed to be made subject to the rights of the caveator.

**PART 6****MISCELLANEOUS PROVISIONS****34 Mergers**

(1) The Registrar, upon being satisfied that any estate or interest shown on the Land Register has merged according to the rules of law and equity with any other estate or interest, may, upon the written application of the person in whom those estates or interests are shown on the Land Register as being vested, or of his duly authorised attorney, solicitor or agent make such entries in the Land Register as may be necessary to give effect to the merger.

(2) The same fees shall be payable as for the registration of an instrument.

**35 Registrar to have and use seal of office**

The Registrar shall have and use a seal of office, which shall be in such form as Cabinet approves, and every imprint of such a seal and purporting to be signed or issued by the Registrar, or by his deputy, shall be received in evidence, and shall be deemed to be signed or issued by or under the direction of the Registrar, without further proof, unless the contrary is shown.

**36 Forms**

(1) The forms prescribed by these Regulations for use in the Land Registry are set out in Schedule 1 and indicated by the corresponding numbers therein.

(2) The forms may be used with such modifications as may be required, and, if no form is prescribed by these Regulations, then such form may be used as Cabinet may direct or approve.

**37 Fees**

(1) The fees set out in Schedule 2 are hereby prescribed as the fees to be paid for the registration or deposit of any instrument and any search under these Regulations.

(2) No fee shall be payable in respect of the following transactions –

(a) The bringing of land and any relevant documents relating to the registration of the first title to land under these Regulations; or

(b) The filing or registration of any instrument or any search on behalf of the Crown or by the Registrar.

(3) Subject to paragraph (2), no instrument shall, without the leave of the Registrar, be registered or deposited, unless the prescribed fee has been paid.

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## SCHEDULES

## SCHEDULE 1

## Form 1

Reg. 23 (1)

## POWER OF ATTORNEY

I, A.B. of [Address and occupation], being the proprietor of an estate [Here state nature of the estate or interest] subject, however, to such encumbrances, liens, and interests as are notified by memorandum underwritten or endorsed hereon, in [Here refer to Schedule for description and contents of the several parcels of land intended to be affected, which Schedule must contain reference to the existing volume and folio of the Land Register], hereby appoint C.D., of [Address and occupation], attorney on my behalf to [Here state the nature and extent of the powers intended to be conferred, as whether to sell, lease, mortgage] the lands in the said Schedule described, and to execute all such instruments and do all such acts, matters and things as may be necessary for carrying out the powers hereby given, and for the recovery of all rents and sums of money that may become or are now due or owing to me in respect of the said lands, and for the enforcement of all contracts, covenants, or conditions binding upon any lessee or occupier of the said lands or upon any other person in respect of the same, and for the taking and maintaining possession of the said lands, and for protecting them from waste, damage, or trespass.

## SCHEDULE

In witness whereof I have hereunto subscribed my name this  
day of 20 .

A.B.

Signed by the above-named A.B, in the presence of –

G.H.

[Occupation and address]

## Form 2

Reg. 24 (1)

## REVOCATION OF POWER OF ATTORNEY

I, A.B. of [Address and occupation], being the proprietor of an estate [Here state the nature of the estate] in all that piece of land [Here describe the land, referring to the volume and folio of the Land Register], hereby revoke the power of attorney given by me to C.D., of [Address and occupation], dated the  
day of 20 .

In witness whereof I have hereunto subscribed my name this  
day of 20 .

A.B.

Signed by the above-named A.B, in the presence of –

G.H.

[Occupation and address]

Form 3

Reg. 29 (3)

CAVEAT FORBIDDING REGISTRATION OF DEALING

To the Registrar of the High Court, Niue

Take notice that I, A.B. of [Occupation and address], claiming estate or interest [Here state the nature of the estate or interest claimed, and the ground on which claim is founded] in [Here describe land], forbid the registration of any instrument affecting the said estate or interest until this caveat is withdrawn by me, or by order of the High Court.

And I appoint [Here state an address in Niue] as the place at which notices relating hereto may be served,

Dated this                      day of                      20                      .

A.B.

Signed by the above-named [Name of caveator], as caveator, in the presence of –  
C.D.

[Occupation and address]

Form 4

Reg. 29 (3)

CAVEAT BY REGISTRAR FORBIDDING REGISTRATION OF DEALING

Take notice that the Registrar hereby forbids the registration of any instrument affecting the estate or interest described in Schedule 1, upon the grounds set out in Schedule 2 until this caveat is withdrawn by him, or by order of the High Court or a Judge thereof, or by order of the Court of Appeal.

As witness the hand of the Registrar (Deputy Registrar) and the seal of office of the Registrar this                      day of                      20                      .

SCHEDULE 2

Signed by the Registrar  
(Deputy Registrar) and  
sealed with the Registrar's  
seal of office in the presence  
of:

.....  
Registrar (Deputy Registrar)

Witness:  
Occupation:  
Address:

Notices relating hereto must be addressed to the Registrar at the Land Registry in Niue.

FEES

Reg. 37

	\$
1 For registering an instrument .....	1.00
2. For every entry of a memorial of registration .....	0.20
3, For every power of attorney deposited .....	1.00
4. For depositing every revocation of a power of attorney .....	1.00
5. For registering any caveat .....	1.00
6. For cancelling or withdrawal of caveat and for every notice relating to any caveat .....	0.50
7. For any instrument deposited for safe custody .....	1.00
8. For registering or noting anything not otherwise provided for .....	1.00
9. For every single search .....	0.20
10. For every general search .....	0.50
11. Certified copies –	
(a) Of any instrument or extract from the Land Register – for every 100 words or part thereof .....	0.05
(b) Of any page or part thereof supplied by photocopy or other reproduction processes .....	0.20

## MARRIAGE REGULATIONS 1970

1970 – 1 April 1971

1	Title	13	Issue of certified copies of entries for official purposes
2	Interpretation	14	Certified copy of any entry in Registers to be received in Court
3	Solemnisation of marriage	15	Correction of errors
4	Notice of marriage	16	Discretion of Registrar
5	Consent to marriage of minors	17	Endorsement of marriage entry where marriage dissolved
6	Marriage Registers	18	Fees
7	Record of marriage		
8	Transmission of record to Registrar		
9	Marriage certificate		
10	Custody of Registers		
11	Registers open to public		
12	Registrar may issue certified copies or certificates of any entry		

### SCHEDULES

#### 1 Title

These are the Marriage Regulations 1970.

#### 2 Interpretation

(1) In these Regulations –

“Act” means the Niue Act 1966;

“marriage officer” means a marriage officer as defined in section 516 of the Act;

“Register” means the Marriage Register kept under regulation 6;

“Registrar” means the Registrar of the High Court, and includes the Deputy Registrar.

(2) Other expressions defined in the Act have the meanings so defined.

(3) A reference to a numbered form is a reference to a form so numbered in

Schedule 1.

#### 3 Solemnisation of marriage

(1) All marriages must be solemnised between the hours of 8am and 5pm.

(2) At the time of solemnisation of a marriage, the doors of the building (if any) shall be kept open to allow of the admission of the public.

(3) The 2 witnesses to a marriage shall be of or over the age of 21 years.

#### 4 Notice of marriage

The notice of marriage required under section 520 of the Act shall be in form 1.

#### 5 Consent to marriage of minors

The consent required under section 526 of the Act shall be in form 2.

#### 6 Marriage Registers

Every marriage officer shall keep for the purpose of recording marriages a Marriage Register in form 3 supplied for the purpose by the Registrar.

#### 7 Record of marriage

(1) Every marriage officer by whom a marriage is solemnised shall forthwith record on the original and copies of the Register the several particulars relating to the marriage required by form 3.



(2) If a marriage officer is called upon to solemnise a marriage and at the time no Register is available, he shall enter the particulars of the marriage on a blank form instead of in the Register, and shall, as soon as practicable, affix the form in the Register and that form shall be deemed part of the Register.

(3) No marriage shall be invalidated by any error or defect in form 3 or in the particulars so required to be recorded.

#### **8 Transmission of record to Registrar**

The duplicate copy of the Register shall be transmitted to the Registrar under section 524 of the Act.

#### **9 Marriage certificate**

Every marriage officer by whom any marriage is solemnised shall, without fee, deliver to one of the parties to the marriage a marriage certificate in form 3.

#### **10 Custody of Registers**

(1) The Registers shall be safely kept by the marriage officers in whose custody they are placed, and shall be deemed to be the property of the Crown.

(2) Upon the death, dismissal, transfer, or resignation of any marriage officer, the custody of those Registers shall pass to his successor in office.

#### **11 Registers open to public**

The Registers to be kept under these Regulations shall at all reasonable times be open to the public on payment of the prescribed fee.

#### **12 Registrar may issue certified copies or certificates of any entry**

(1) The Registrar shall, on the application of any person, and on payment of the appropriate fee prescribed in Schedule 2, issue in form 4 certified copies or certificates of any entry made in the Registers.

(2) Notwithstanding this regulation, the Registrar may dispense with the payment of any fee payable under these Regulations in cases of genuine hardship.

#### **13 Issue of certified copies of entries for official purposes**

Notwithstanding regulation 12, where a certified copy of any entry in a Register kept under these Regulations or a certificate as to any such entry is required for any official purpose, the Registrar shall issue the certified copy or special certificate in the prescribed form, free of any charge.

#### **14 Certified copy of any entry in Registers to be received in Court**

A certified copy of any entry in a Register, made or given and purporting to be signed by the Registrar and stamped with his seal, or made or purporting to be signed by any Deputy Registrar and stamped with the seal of the Registrar, shall be received in any court as prima facie evidence of the marriage to which it relates.

#### **15 Correction of errors**

(1) Any clerical error or any error of fact or substance or any omission of any material fact in any Register may be corrected by the Registrar.

(2) For the purpose of this regulation, the Registrar may require to be produced a statutory declaration and such other evidence as to the facts as he considers necessary.



(3) Any person having custody of a Register shall, upon the direction of the Registrar, make corrections of any errors or omissions in the Register.

(4) Except as provided in this regulation, no alteration shall be made in any entry in any Register after the entry has been completed.

#### **16 Discretion of Registrar**

Where for any sufficient cause shown to the satisfaction of the Registrar any act, matter, or thing required by these Regulations cannot be done within the time limited by or in strict compliance with the conditions imposed by these Regulations, it shall be sufficient if that act, matter, or thing is done within a reasonable time thereafter, or if the conditions imposed are complied with so far as is reasonably possible.

#### **17 Endorsement of marriage entry where marriage dissolved**

(1) Upon the making of a decree of divorce, or a decree of presumption of death and of dissolution of marriage, or a decree of nullity of marriage, or a decree of dissolution of a voidable marriage in respect of any marriage solemnised in Niue, the Registrar shall cause a memorandum to be entered on the record of the marriage entry.

(2) The Registrar shall forward a notice of the memorandum referred to in paragraph (1) to the marriage officer (if any) having lawful custody of the Marriage Register in which the marriage is registered, and the marriage officer shall enter the particulars disclosed in the notice on the entry in the Marriage Register.

(3) Every certified copy of an entry in a Marriage Register issued after any memorandum has been entered as provided by this regulation shall contain the particulars disclosed in the memorandum.

#### **18 Fees**

(1) There shall be paid to the Registrar for various matters specified in Schedule 2 the respective fees specified in that Schedule.

(2) Every marriage officer is hereby empowered to receive and take on behalf of the Registrar the several fees specified in Schedule 2.

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## SCHEDULES

## SCHEDULE 1

## FORM 1

## Niue

## NOTICE OF INTENDED MARRIAGE

Reg. 4

To \_\_\_\_\_, a marriage officer of Niue.

Notice is hereby given that the undermentioned parties intend to marry at  
[Church or other place where marriage is to be solemnised] on

20

	Bridegroom	Bride
Name and surname		
Age		
Occupation		
Status (i.e. bachelor, spinster, widower, widow, or divorced)		
Birthplace		
Usual residence		
Father's name and surname		
Father's occupation		
Mother's name and surname		

I solemnly declare that to the best of my knowledge and belief the foregoing particulars are true in every respect; and that there is not any impediment to the intended marriage (\*and that the consent required under section 526 of the Niue Act 1966 has been obtained).

\*Delete if not applicable

Declared before me, the undersigned, this

\_\_\_\_\_  
[Signature of party giving notice]

day of 20

\_\_\_\_\_  
Marriage officer.

Reg. 5

Form 2  
Niue  
CONSENT TO MARRIAGE OF MINOR

I, \_\_\_\_\_

of \_\_\_\_\_

being the [State: "Father or Mother"]

of [Full name of party to marriage who is under age]

who was born on the

hereby consent to his (her) marriage with [Full name of other party to marriage]

Signed before me, the undersigned, at  
day of \_\_\_\_\_ 20 .

this

\_\_\_\_\_  
[Signature of parent]\_\_\_\_\_  
Marriage officer.

Reg. 6

FORM 3  
Niue  
MARRIAGE REGISTER

No. \_\_\_\_\_

	Bridegroom	Bride
Name and surname		
Age		
Occupation		
Status (i.e. bachelor, spinster, widower, widow, or divorced)		
Birthplace		
Usual residence		
Father's name and surname		
Father's occupation		
Mother's name and surname		

Married, after notice duly given to me as required by section 520 of the Niue Act 1966,  
this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_  
[Signature of marriage officer]

This marriage was solemnised between us:

Signatures of parties married \_\_\_\_\_

\_\_\_\_\_

In the presence of us: \_\_\_\_\_

Signatures, places of abode, and calling of witnesses

\_\_\_\_\_

Reg. 12

Form 4

Niue

CERTIFIED COPY OF ENTRY IN MARRIAGE REGISTER

Number			
When married			
Where married			
		Bridegroom	Bride
Name and surname			
Age			
Occupation			
Status (i.e. bachelor, spinster, widower, widow, or divorced)			
Birthplace			
Usual residence			
Father's name and surname			
Father's occupation			
Mother's name and surname			

Certified to be a true copy of the above particulars included in an entry in the Marriage Register in my lawful custody.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_ .

\_\_\_\_\_  
Registrar.

Reg. 18

SCHEDULE 2  
FEES TO BE PAID TO REGISTRAR OF THE HIGH COURT

	\$
For every notice of intended marriage	0.50
For every marriage solemnised	4.00
For every certified copy of any entry in a Marriage Register, including search	1.00
Search or inspection of Marriage Register, in respect of each name or entry	0.20

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**PENAL MANUAL 2006**

2006/3 – 26 September 2006

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PART 1  
GENERAL

- 1 **Short title**  
This manual may be cited as the Penal Manual 2006.
- 2 **Definitions**  
In this Manual –
  - “Controller” means the person appointed as Controller of Prisons for Niue;
  - “inmate” means a person confined in a prison to serve a sentence upon conviction;
  - “Judge” in relation to the High Court, means any Judge of that Court;
  - “night or night – time” means the interval between half past six o’clock in the evening and half past six o’clock in the morning”;
  - “offender on Remand” means a person detained by any agency of the Government of Niue, authorized to arrest and detain offenders;
  - “Superintendent” means the person appointed as superintendent of a prison.
- 3 **Principles and purposes and of the penal system**
  - (1) The purpose of the corrections system is to improve public safety and contribute to the maintenance of a just society by –
    - (a) Ensuring that the community-based and custodial sentences and related orders that are imposed by the courts and the Parole Board are administered in a safe, secure, humane, and effective manner; and
    - (b) Providing for corrections facilities to be operated in accordance with these regulations and the United Nations Standard Minimum Rules for the Treatment of Prisoners; and
    - (c) Assisting in the rehabilitation of offenders and their reintegration into the community, where appropriate, and so far as is reasonable and practicable in the circumstances and within the resources available, through the provision of programmes and other interventions; and
    - (d) Providing information to the courts and the Parole Board to assist them in decision-making.
  - (2) The principles that guide the operation of the corrections system are that—
    - (a) The maintenance of public safety is the paramount consideration in decisions about the management of persons under control or supervision;
    - (b) Victims’ interests must be considered in decisions related to the management of persons under control or supervision;
    - (c) In order to reduce the risk of reoffending, the cultural background, ethnic identity, and language of offenders must, where appropriate and to the extent practicable within the resources available, be taken into account—
      - (i) in developing and providing rehabilitative programmes and other interventions intended to effectively assist the rehabilitation and reintegration of offenders into the community; and
      - (ii) in sentence planning and management of offenders;



- (d) Offenders must, where appropriate and so far as is reasonable and practicable in the circumstances, be provided with access to any process designed to promote restorative justice between offenders and victims;
  - (e) An offender's family must, so far as is reasonable and practicable in the circumstances and within the resources available, be recognised and involved in –
    - (i) decisions related to sentence planning and management, and the rehabilitation and reintegration of the offender into the community; and
    - (ii) planning for participation by the offender in programmes, services, and activities in the course of his or her sentence;
  - (f) The corrections system must ensure the fair treatment of persons under control or supervision by –
    - (i) providing those persons with information about the rules, obligations, and entitlements that affect them; and
    - (ii) ensuring that decisions about those persons are taken in a fair and reasonable way and that those persons have access to an effective complaints procedure;
  - (g) Sentences and orders must not be administered more restrictively than is reasonably necessary to ensure the maintenance of the law and the safety of the public, corrections staff, and persons under control or supervision;
  - (h) Offenders must, so far as is reasonable and practicable in the circumstances within the resources available, be given access to activities that may contribute to their rehabilitation and reintegration into the community;
  - (i) Contact between prisoners and their families must be encouraged and supported, so far as is reasonable and practicable and within the resources available, and to the extent that this contact is consistent with the maintenance of safety and security requirements.
- (3) Persons who exercise powers and duties under these regulations must take into account the principles set out in paragraph (2) that are applicable, so far as is practicable in the circumstances.

#### **4 General instructions**

- (1) There shall be a Controller who shall have the prime responsibility for the application of the purposes and principles set out in regulation 3.
- (2) (a) Except with the express permission of the Controller no person (including any officer or employee of the Department of Police or of Justice, Lands and Survey) is permitted to enter the prison compound at any time.
- (b) This rule does not apply to a person with whom the Controller has made arrangements to conduct spiritual devotionals for the welfare of inmates.
- (3) (a) The Superintendent may refuse to admit to the prison any visitor whose conduct is improper, and may for that purpose use or authorize the use of such force as may be necessary.
- (b) Incidents of such nature shall be reported immediately to the Controller or appropriate authority.
- (4) The prison cells for the detention of inmates shall be secured by locks and keys retained by the Superintendent or his substitute who is on duty.

(5) The Niue Public Service Commission on advice of the Controller shall set the hours of duty to be observed by the Superintendent and other prison officers each day of the week or month, as the case may be and in accordance with regulation 31.

## **5 Admission and discharge of prisoners**

(1) There shall be an admission register, in which there shall be entered in respect of each inmate the following particulars –

- (a) Information concerning his identity (name, sex, village or home address, telephone number);
- (b) Authority for his committal and offence committed;
- (c) Admission and discharge dates;
- (d) Other particulars as may be directed by the Controller.

(2) Every inmate upon admission shall be searched, and all property taken from him shall be recorded and returned to him on the date of his release.

(3) The Superintendent shall be responsible for the safekeeping of inmates' property while in prison custody.

(4) The Record Property Sheet shall be signed by the inmate, as acknowledgement of receipt his property.

## **6 General provisions as to discipline and control**

(1) Discipline and order shall be maintained with firmness and fairness.

(2) Treatment of inmates shall have regard to the aim of rehabilitation, encouragement of self-respect and a sense of personal responsibility.

(3) Prison officers shall exercise the utmost care and vigilance in the custody and surveillance of the inmates under his charge and shall not part with the custody of an inmate.

(4) No prison officer shall use force in dealing with any inmate except in self-defence or in defence of another person or in the case of escape or attempted escape or active or passive physical resistance to a lawful order.

(5) Any prison officer who uses force subject to paragraph (4) shall report the incident to the Controller as soon as possible.

(6) Every inmate must promptly obey every lawful order that is given to him.

(7) Any inmate who considers himself aggrieved by an order must nevertheless obey, but may on the first convenient occasion complain to the Controller.

(8) Every inmate must keep their person, sleeping quarters, eating materials and furniture in the highest state of cleanliness and tidiness.

## **7 Constables**

(1) Any constable may visit any inmate provided the Superintendent is present at the time of interview.

(2) If an inmate express unwillingness to see the Police the visit may be terminated forthwith.

## **8 Legal adviser**

(1) The legal adviser of any inmate may, with the prior permission of the Controller interview the inmate on any legal business not pertaining to the discipline of the prison.

(2) Any abuse of this privilege by the legal adviser or any assistant will result in the approval being withdrawn automatically.

**9 Visits**

(1) Inmates shall be permitted to receive visitors on Saturdays and Sundays or any week day provided the Superintendent is satisfied that the reason(s) given are valid and may not affect the security or discipline of the Prison.

(2) The time allocated for each visitor shall be at the discretion of the Superintendent and in special cases the approval of the Controller must be sought.

(3) Prison cells are out of bounds to visitors, except as provided under paragraph (1).

**10 Release**

(1) The Controller may in special circumstances apply the following general provisions –

(a) A weekend release may be granted for inmates serving a sentence of 6 months or more and who is known to be a family man with a spouse rearing a large or young family but such a release shall be considered a privilege and can be taken away at any time;

(b) Temporary release to attend the wake and funeral of any local member of the family may be granted to any inmate provided a request is made to the Controller;

(c) Inmate(s) on a weekend or temporary release is responsible for their own transport to and from the prison custody;

(d) In every other case the application by inmates for a temporary release shall be considered on merits.

(2) The Controller alone shall be responsible for dealing with the application of paragraph (1).

**PART 2****WELFARE OF INMATES****11 Religion**

(1) The Controller may enter into arrangements with any church or organization for the appointment of a Minister of religion to conduct services and religious observances once a week.

(2) With the approval of the Controller, services may be held at the prison compound on Sundays, Good Friday or Easter holiday and Christmas Day.

(3) Any Minister of religion may at convenient times, visit any inmate for whom he or she has pastoral responsibility, subject however to prior arrangements with the Controller or the Superintendent.

(4) The Controller may exempt any inmate from working on any day of his recognized days of religious observances.

**12 Education and library**

(1) Inmates interested in furthering their education by correspondence or other means may be permitted to do so by special arrangements with the Controller.

(2) There shall be a prison library providing reading materials for inmates and to be opened at times and dates approved by the Superintendent.

**13 Health**

(1) Notwithstanding regulation 4(2) the medical officer shall visit the prison at such periods as may be specified by the Controller or any other time as requested by the Superintendent.

(2) This condition also applies to the professional services provided by the Dental Officer in the case of dental problems.

(3) The Superintendent or any prison officer on duty shall provide the medical or dental officer any information relevant to the cause of health problems of any inmate.

(4) Inmates suffering from any contagious or infectious disease may be removed from the prison on recommendation of the medical officer provide however the Controller is informed prior to the inmate's removal from custody.

(5) The Superintendent shall immediately notify the Controller, and where practicable, the next of kin of the deceased whenever any inmate –

- (a) Becomes seriously ill or suffers injury;
- (b) Removed to the hospital; or
- (c) Suffers death.

(6) The Superintendent shall at once inform an inmate of any intimation he receives of the death or serious illness of any near relative of the inmate.

#### **14 Accommodation, bedding and clothing**

(1) Prison cells are provided to accommodate no more than four inmates at any one time and such arrangements must comply with the prevailing health standard.

(2) A separate bunk bed is provided for each inmate in each of the cells, and following the usual practice, inmates are expected to supply their own personal bedding as well as outdoor working clothes, except in special cases where circumstances demand the prison authority may supply the needs of an inmate but not otherwise.

(3) Washing facilities are also available for inmates to wash their own clothes at times approved by the Superintendent.

#### **15 Food**

(1) Every inmate shall be supplied with a sufficient quantity of wholesome food, but generally the diet shall on each day consist of –

Bread or hard biscuits	1/2 loaf or 1/2 dozen biscuits per inmate per day.
Tin of meat/fish	1/2 tin of meat/fish per inmate per day.
Sugar, milk and tea	sufficient supply per day.
Rice or any substitute	sufficient for an evening meal or 1 bowl of rice per day per inmate.
Local food/vegetable	when available

(2) (a) Provisions for special diet can be arranged on recommendation of a medical officer.

(b) Basic cooking facilities and utensils are available for inmates to cook their own food.

(c) Cooking utensils, plates and cups used for serving food and drink must be washed and kept clean at all times.

(3) Notwithstanding the standard supply of food and diet listed above every effort shall be made by the prison authority to initiate and foster planting programmes under supervision that would eventually lead to the prison being self – sufficient in local food supplies both in vegetables and fresh local meat.

**16 Inmates awaiting trial**

(1) An offender awaiting trial must not under any circumstances be placed in a cell which has already been occupied by an inmate and shall, as far as practicable be kept apart from other inmates.

(2) The expression offender awaiting trial means an offender detained only by reason of fact that he is awaiting trial or is in remand during the trial or before sentence.

(3) Any interview between an offender awaiting trial and his legal adviser may be held in sight, but not within the hearing of a prison officer.

(4) Every offender awaiting trial shall be permitted to procure at his own expense or receive from his friends reasonable quantities of food and other necessities for his own use.

(5) An offender awaiting trial is not required to work unless he volunteers to do so.

**17 Inmates under the age of twenty-one**

Except during working hours, library or income working projects an offender(s) awaiting trial or an inmate under the age of 21 years shall be kept in a cell separately from other inmates over that age.

**18 Inmates good behaviour and remission**

(1) An inmate serving an imprisonment sentence of 3 to 6 months maximum shall be allocated marks on the basis of good behaviour and diligence.

(2) The maximum number of marks which an inmate may be allocated per day is limited to five only.

(3) (a) For the purpose of the partial remission of sentences, every 15 marks allocated shall represent one day's remission.

(b) The Controller may, in recommending or granting any such remission, take into account any other matter he considers relevant to an assessment of the inmates good conduct and diligence during his sentence.

(4) An inmate shall be notified of the number of marks (if any) of any remission represented by those marks at the end of each month.

**19 Inmates hours of work**

The following is the standard working hours:

Monday to Friday	- 6am to 5.00pm with 1 hour break for lunch.
Saturday	- 7:30am to 12.00pm. Afternoon for general clean up and laundry needs.
Sunday	- rest day but confined to prison compound.
Christmas/New Year/ Constitution Day	- free but confined to prison compound.

**20 Provision as to earning of inmates**

Income earning projects are subject to separate and special arrangements as determined by the Controller.

**21 Transfer of inmates to New Zealand**

Provisions relating to the transfer of inmates are contained in section 243 of the Niue Act 1966.

## PART 3

## DUTIES AND RESPONSIBILITIES OF PRISON OFFICERS

**22 Management and control**

(1) The Superintendent is charged with the control, management, order, and discipline of the prison, safe custody of inmates, and all Government property.

(2) At least once a week and on uncertain hours he shall visit the prison at night and satisfy himself that all is in order.

(3) The Superintendent shall not be away from the vicinity of the prison for more than 24 hours at a time without previously notifying the Controller.

(4) Before leaving the prison on any occasion he shall transfer charge to his deputy or to the prison officer whom under these instructions is answerable to the Controller for the control and supervision duties.

(5) If he is unable through sickness to perform his duties he shall transfer charge to his deputy and report absence to the Controller.

(6) In the absence of the Superintendent, the Deputy shall have charge of the prison and responsible in the same manner as the Superintendent.

(7) The Deputy Superintendent shall have such other powers to carry out duties as delegated by the Superintendent.

**23 Overall supervision**

(1) The Superintendent shall exercise a close and constant personal supervision of the whole prison, and shall see as far as practicable that each inmate is known to him.

(2) He shall at reasonable intervals inspect all parts of the prison and shall give special attention to any inmate who is sick or under restraint or undergoing confinement in a cell or upon restricted intake of food or diet.

(3) He shall satisfy himself that all occupied prison cell are locked at appropriate times, and keys are kept at the authorised place or in possession of the officer of duty.

(4) He shall require reports accounting for all inmates to be made to him at the hour of final lock – up, at such times as inmates go and return from work and at such times as he considers necessary.

(5) The Superintendent shall report promptly to the Controller whenever any inmate –

(a) Escapes; or

(b) Is captured after an escape; or

(c) Is placed under mechanical restraint; or

(d) Involved in an accident.

(6) The Superintendent may at any time refuse to allow any person access to the prison compound if there is cause to suspect that liquor or any prohibited item is to be brought into the compound.

**24 Keeping and maintaining official records**

The Superintendent shall cause to be kept the following record books and such other books and records as may from time to time be directed by the Controller:

(a) Admission register including information on discharge;

(b) Inmates Property Record book;

(c) File containing Warrants;

(d) Lock-up Report book;

(e) Punishment Record book;

(f) Official Visitors' book; and

(g) Visitors' book.



**25 Prison Officers and performance of duties**

(1) Every prison officer shall perform such duties as the Superintendent directs from time to time, and carry out any extra or special duty when directed.

(2) Unless the Controller directs otherwise, the control of the prison shall in the absence of the Superintendent and his Deputy fall on the next senior prison officer.

(3) Any prison officer who is in charge of the prison under paragraph (2) shall for the time being be responsible as if he were the Superintendent, and shall exercise all powers vested by this Penal Manual in the Superintendent.

**26 Instructions in the event of an emergency**

(1) The Superintendent shall cause to be prepared a set of instructions to be followed in the event of any emergency such as fire or hurricanes and shall note these instructions and any change subsequently made to him in his order book.

(2) He shall see that all inmates are fully instructed in their duties in the event of fire or hurricanes, and shall ensure that appropriate authorities are informed promptly.

**27 In cases of emergency and lawful orders**

(1) In any case of emergency every prison officer under the control of the Superintendent is expected to act promptly, to use his own judgment, and to exercise initiative.

(2) Every officer shall obey without question any lawful order given by the Superintendent or his substitute, but he may afterwards appeal to the Controller if he by any reason disagrees with the order given at the time.

**28 Association other than performance of duties with inmates prohibited**

(1) Except in the performance of his official duties no prison officer shall associate in any way with any of the inmates under his charge.

(2) No officer at any time shall receive any money, reward, trades; enter into an agreement or benefit of any kind from or on behalf of any inmate.

(3) Unless authorized in writing by the Controller no officer shall purchase any article from, belonging or made in prison, or have work done for him by an inmate.

**29 Personal visitors - alcohol prohibited**

(1) Except with the permission of the Controller, no officer shall be permitted to receive or take personal visitors within any part of the prison other than the officer's quarters.

(2) No officer shall have or use intoxicating liquor within any part of the prison compound or within close proximity to the inmates' quarters.

**30 Employment grievances**

(1) Any officer wishing to bring any matter before the Controller may make a written statement to the Superintendent, who shall forthwith forward the statement with his comments to the Controller.

(2) Any officer may elect to join the Niue Public Service Association and may either alone or in company with any other officer make representation to the Association on any matter relating to the salaries, wages, allowances, uniforms or condition of employment of officers.



**31 Prison officers hours of work**

(1) The Superintendent is required to work standard working hours each day or week days as prescribed by the Commission under regulation 40 of the Public Service Regulations 2004.

(2) For any other prison officer the Commission on the advice of the Controller shall prescribe the hours of work each day but generally under a weekly or monthly roster system as deemed appropriate.

PART 4  
PAROLE SYSTEM

**32 Parole Board**

The Parole Board established under section 286A of the Niue Act 1966 and shall together with Parole Officers administer the parole system.

**33 Eligibility for parole**

(1) Every offender shall be eligible for consideration by the Minister for Justice for release on parole upon recommendation by the Controller of Prison or upon the expiry of the following periods since serving the prison sentence –

- (a) 10 years in the case of every offender undergoing imprisonment for life, having been sentenced to death and the sentence having been commuted to life imprisonment;
- (b) 8 years in the case of every other offender undergoing imprisonment for life;
- (c) 1 year after the expiration of one – half of the term of the sentence, whatever period is longer in the case of every offender undergoing a sentence of one – year or more than a sentence of life imprisonment.

(2) In considering any case under parole the Minister shall not be required to interview the offender.

**34 Jurisdiction of the Controller**

The Chief of Police through the Parole Officer shall have jurisdiction in respect of persons released on parole after serving a sentence in prison.

**35 Term of parole**

Where any offender who is detained under sentence of imprisonment for a year or more, not being imprisoned for life, is released from detention before the expiry of the minimum term for which he is liable to be detained under sentence, he shall be on parole, from the time of release, until the expiry of the term of his sentence, or for one year if the unexpired part of that term is less than a year.

**36 Term of parole to be deemed part of sentence**

Whenever any person detained under any sentence is released on parole before the expiry of the sentence, the term of the sentence shall continue to run while he is on parole as if he were still serving the sentence.

**37 Conditions of parole**

(1) Where any offender is released on parole the following general conditions shall apply –

- (a) He shall report in person to the Parole Officer whose office is located as appointed by the Commission, within 24 hours after his release on parole;
- (b) He shall give the Parole Officer under whose supervision he is for the time being, reasonable notice of his intention to move from his village of residence to any other village or district, together with the nature and place of his employment;
- (c) He shall not reside at an address that is not approved by the Parole Officer;
- (d) He shall not continue in any employment that is not approved by the Parole Officer;
- (e) He shall not associate with any specified person, or with persons of any specified class, with whom the Parole Officer has, in writing, warned him not to associate; and
- (f) He shall be of good behaviour and shall not commit any offence against the law.

(2) Every paroled offender shall be under the direct supervision of a Parole Officer.

(3) Any paroled offender through the Parole Officer may at any time apply to the Controller for the remission, suspension or variation of any general or special condition of parole, and the Controller may, and in writing, suspend the condition until the application has been heard by the Court.

(4) The Parole Officer may apply to the Court through the Controller for the imposition of any additional condition of parole in respect of any paroled offender under his supervision.

**38 Breach of conditions of parole**

(1) Every paroled offender who contravenes or fails to comply with any condition of his parole shall be dealt with in accordance with regulation 38(1).

(2) Where any Parole Officer or any cibstabke believes on reasonable grounds that any paroled offender had committed a breach of a condition of his parole, he may arrest the offender without a warrant and to be dealt with in accordance with section 101 of the Niue Act 1966.

**39 Recall of offender released on parole**

(1) (a) The Controller may, at any time while an offender is released on parole, direct that the offender be recalled.

(b) On the giving of the direction, the parole shall be deemed to be cancelled and the offender may be arrested without warrant by any constable, and shall be detained and shall continue to serve his sentence unless he is again released on the recommendation of some reputable person or persons of the village where the parole offender resided.

(c) Such a release shall not operate to extend term of the offender's parole, beyond the date on which that term would have expired had he not been recalled.

(2) The authority conferred in paragraph (1) above may be exercised on such grounds as the Controller thinks fit, and whether or not the offender has committed a breach of the conditions of his parole.

**40 Appointment of parole officers**

The Niue Public Service Commission may appoint any person or the holder for the time being of any office or appointment in the Niue Public Service as a Parole Officer.

**41 Duties and responsibilities**

(1) The Parole Officer may, and shall when required by the Controller, report on the character and personal history of any person released on parole or undergoing a sentence of imprisonment with a view of assisting the Controller in determining the most suitable method of dealing with his case; and may in such report advise the Controller whether the offender would be likely to respond satisfactory to parole and whether special condition of parole should be imposed.

(2) Every Parole Officer shall –

- (a) Supervise all persons placed under his supervision, with a view of assisting their social rehabilitation and preventing the commission of further offences; and
- (b) Perform such other duties as directed by the Court or the Controller.

**PART 5****PROBATION SERVICE****42 Administration**

Regulations 42 to 49 shall be administered by the Controller under the jurisdiction of the High Court.

**43 Probation orders issued by Court**

(1) Any person convicted by Court of any offence punishable by imprisonment, may in its discretion, instead of sentencing him to prison, release the offender on probation for a period specified by the Court, being generally a period not less than 1 year and not more than 3 years.

(2) Where an offender is released on probation, the Court may also at the same time make an order to pay any fine authorized by law and impose any additional orders as it thinks fit.

(3) (a) Any offender sentenced to imprisonment for a term less than 1 year may be considered for release on probation for a period not exceeding 1 year upon terms and conditions specified by the Court.

(b) In any such case the offender released on probation shall be under the supervision of the Probation Officer.

(4) In the event of any appeal or an application for leave to appeal, a release on probation shall be deemed to be a sentence, or if a fine is imposed, to be part of the sentence.

(5) Where any person is released on probation it is the duty of the Registrar to notify the Probation Officer accordingly.

(6) Where any person is released on probation the Probation Officer shall issue the probationer with a written notice setting out the conditions subject to which he has been released.

**44 Conditions of release**

Where any person is released on probation, the following general conditions shall be used as guidelines –

- (a) To report to the Probation Officer immediately upon his release on probation and shall further report to endorse the probation register if and when he is required to do so by the Probation Officer;
- (b) To give to the Probation Officer reasonable notice of his intention to move away from his usual place of residence and his new address, the nature and place of employment;
- (c) Not to reside at an address that is not approved by the Court or Probation Officer;
- (d) Not to continue in any employment or continue to engage in any occupation that is not approved by the Court or Probation Officer;
- (e) Not to associate with any specified person or persons of any specified group, with whom the Court or Probation Officer has, in writing, warned him not to associate;
- (f) He shall be in good behaviour and commit no further offence against the law;
- (g) To be engaged on approved community service or national projects or any other work considered to be of some benefit to the people or island as a whole.

**45 Additional conditions may be imposed by Court**

The High Court in releasing any person on probation may impose additional conditions as it thinks fit or on the basis of the following –

- (a) Direct the probationer to remain within his usual place or residence or village throughout the entire period of the term of his probation;
- (b) Direct the probationer not to attend social gatherings or night spots within or outside of his usual place of residence or village;
- (c) Direct the probationer to make good the loss or damage to the property for which he was convicted for or pay full restitution or compensation for loss suffered by any person through or by means of any such offence for which he was found guilty and conviction ordered accordingly;
- (d) Direct the probationer to abstain from the use of intoxicating liquor or drugs;
- (e) Direct the probationer not to associate with any specified person or with persons of any specified group or class;
- (f) Direct the probationer to undergo any specified course of education or training, including regular attendance to any specified church organisation;
- (g) For ensuring his good conduct or for preventing the commission of further offences.

**46 Breach of conditions of probation**

(1) Every probationer who fails to abide by the terms and conditions of his probation is liable to be prosecuted under section 101 of the Niue Act 1966.

(2) Where any probationer is convicted under the provision specified in paragraph (1), the Court may, in addition to or instead of sentencing the offender, do all or any of the following things, namely –

- (a) Extend the term of probation by any specified period expiring not more than 3 years;
- (b) Vary any condition of the probation imposed earlier by the Court;
- (c) Impose additional conditions.

(3) Where any probationer or any constable believes on reasonable grounds that any probationer has committed a breach of any condition of his probation, he may arrest the probationer without warrant, to be dealt with in accordance with section 101 of the Niue Act 1966.

#### **47 Probation Officer's report**

(1) Where a written report is made to the Court by a Probation Officer, a copy of the report shall be given to the counselor or public defender appearing for the offender, or if the offender is not represented by counsel or public defender, to the offender.

(2) The offender or his counsel or public defender, may tender evidence on any matter referred to in any report whether in written form or otherwise, by the Probation Officer.

(3) The prosecution, in the like manner, is also entitled to receive a copy of every report submitted by a Probation Officer to the Court.

(4) Every report submitted by the Probation Officer shall generally cover the following –

- (a) Full Christian and family names of the offender including alias (if any);
- (b) Age and date of birth and marital status (married/single);
- (c) Brief details of the offence(s) committed by the offender together with the relevant sections of the Act to which the charge(s) are made against him;
- (d) Maximum penalty stipulated by law;
- (e) Details of previous offences and penalties imposed;
- (f) Father/mother's names and their current address;
- (g) Names of children (if any) and their birth dates;
- (h) Detailed education background of the offender;
- (i) Employment (if any);
- (j) Religion;
- (k) Financial status;
- (l) Health; and
- (m) General observation and comments.

#### **48 Procedure for sentence on original sentence**

(1) Any probationer, including a probationer who, in addition to being released on probation, was also sentenced to pay a fine is convicted of an offence committed during the period of probation, the Court may, sentence him for the offence for which he was originally charged and released on probation.

(2) Every application filed by the Probation Officer in terms of regulation 45(3) shall be served on the probationer followed by a summons unless the probationer is already in custody.

(3) Any application made under this section shall be disposed of in the following manner:

- (a) In the case of the offender released on probation by the Justice of the Peace the application shall be dealt with by the Commissioner of the High Court;
- (b) In the case of the offender released on probation by the Commissioner of the High Court, the application shall be dealt with by the Judge;
- (c) In the case of the offender released on probation by the Judge of the High Court the application shall be dealt with by the Chief Justice; or
- (d) In case of the offender released on probation by the Chief Justice, the application shall be dealt with by the Court of Appeal.

(4) The Commissioner or Judge or Chief Justice by whom an application is heard under this section, may if he thinks fit, deal with the offender for the offence for which he was released on probation in any way, other than releasing him again on probation.

#### **49 Effect of subsequent sentence on probation**

(1) Where any person released on probation is sentenced in respect of any offence for a term of one year or more, the probation shall be deemed terminated.

(2) Where any person released on probation is sentenced in respect of any offence to imprisonment less than one year the term of his probation shall continue to run while he is detained under sentence, and on his release from detention, he shall continue to be on probation for the then unexpired residue of that term, unless he is sooner discharged from probation by an order of the Court.

#### **50 Discharge on expiry of probation**

Every probationer shall at the expiry of the term of his or her probation be deemed to be discharged in respect of the offence for which he or she was released on probation as if he or she had been sentenced and had served the term of his or her sentence.

#### **51 Appointment of Probation Officers**

(1) The Niue Public Service Commission shall be responsible for the appointment of any person, or the holder for the time being of any office or appointment in the Niue Public Service, as a Probation Officer.

(2) Any appointment made under the Public Service Regulations 2004 may be held in conjunction with any office or appointment that is not deemed inconsistent with other employment being held.

(3) Any person appointed subject to this section shall be responsible to the Controller.

#### **52 Duties and responsibilities**

(1) It is the duty of the Probation Officer, when so required by any Court or the Controller, to report on the character and personal history of any person convicted of any offence punishable by imprisonment, with a view of assisting the Court in determining the most suitable method of dealing with his case, and may in such report advise the Court whether the offender would be likely to respond satisfactorily to probation and whether any special probation condition should be imposed.



- (2) Generally it shall be the duty of every Probation Officer to –
  - (a) Supervise all persons placed under his supervision, with a view to assisting their social rehabilitation and preventing the commission of further offences;
  - (b) Perform such other duties as may be specified elsewhere under these instructions or directed by the Court or the Controller; and
  - (c) Appear in any proceedings in any Court and make presentation when called upon to do so.
- (3) In the exercise of his duties, every probation officer shall have the same general power, protection and privilege of a constable.

### 53 Discretionary powers

(1) For proper control and supervision purposes the Probation Officer in the exercise of his duties pursuant to regulation 51 or any other provisions shall, in consultation with the Controller, cause to centralize the probation in small groups depending on the nature of the project or an approved work programme.

(2) Every application by recognized sports, church or social organizations, local government bodies or government departments for service under probation system shall be determined according to its merits and by reference to regulation 44(f) provided requests are made in writing to the Controller.

## PART 6 PRISON DISCIPLINE

### 54 Offences against discipline

- (1) The following are offences against prison discipline –
  - (a) Disobedience of lawful orders given by any officer of the prison;
  - (b) Disobedience of any rules of the prison;
  - (c) Using obscene or improper language;
  - (d) Indecent behaviour;
  - (e) Creating a disturbance;
  - (f) Using insulting or threatening language to any officer or other prisoner;
  - (g) Wilfully injuring or destroying any article belonging to the prison;
  - (h) Receiving or using articles prohibited by rules;
  - (i) Refusal to work, or negligence or idleness at work;
  - (j) Disrespect towards any prison officer, or towards the Medical Officer, chaplain or visiting priests or any visitor, or person employed in connection with the prison;
  - (k) Committing a nuisance;
  - (l) Refusing or neglecting to use, take, or apply the medicines or remedies ordered by the Medical Officer;
  - (m) Making repeated groundless complaints; and
  - (n) Wilfully giving or causing unnecessary trouble.
- (2) Punishment in respect of a prison offence may be imposed by the Superintendent of the prison.
- (3) The Superintendent may handcuff or place and keep in separate confinement any prisoner whose conduct is so violent as to render that necessary.
- (4) The Superintendent shall report each case of restraint of a prisoner and the imposition of a punishment of a disciplinary offence in writing to the Controller as soon as possible after that event.
- (5) A prisoner who has been ordered to be punished for a disciplinary offence may appeal against that punishment to the controller.



(6) Where an appeal is made to a Controller under paragraph (5), the Controller shall consider the report provided by the Superintendent and any evidence the prisoner presents.

(7) The decision of the Controller on the appeal shall be final.

#### **55 Offences by inmates relating to drugs and alcohol**

(1) Every inmate commits an offence against discipline who without the authority of a medical officer, uses any drug or consumes alcohol (whether inside or outside a prison).

(2) Every person commits an offence against discipline who, without the authority of a medical officer, uses any drug or consumes alcohol during any period while the person is on temporary release from custody under regulation 10.

#### **56 Attempting or aiding commission of offence against discipline**

Every inmate or person on temporary release from custody under regulation 10 who attempts to commit any offence against discipline, or who aids, counsels or procures the commission of any such offence, is liable to be dealt with and punished in the same manner as if he had committed the offence.

#### **57 Minor or unintentional breaches of discipline**

(1) As far as practicable in the circumstances and if appropriate, an officer must deal with a minor or an unintentional breach of discipline by a prisoner in the following manner –

- (a) By stopping the breach of discipline and explaining the nature of the breach to the prisoner committing the breach;
- (b) By instructing the prisoner to correct his or her behaviour;
- (c) By allowing the prisoner to make amends to any person aggrieved by the breach.

(2) If a minor or an unintentional breach of discipline is not dealt with under paragraph (1), does not prevent an inmate from being charged with a disciplinary offence.

### **PART 7**

#### **COMPLAINTS PROCEDURE**

#### **58 Purpose and objectives of complaints procedure**

The inmates complaints procedure has the following objectives –

- (a) To enable complaints by a person who are or were under control of supervision to be dealt with internally on a formal basis;
- (b) To ensure that all persons under control or supervision are aware of the complaints system and are able to make a complaint if and when they choose to do so, without fear of adverse consequences;
- (c) To ensure that reasonable steps are taken to investigate complaints in a fair, timely, and effective manner;
- (d) To ensure that, if possible in the circumstances, complaints are dealt with reasonably promptly and at the lowest and most informal level;
- (e) To ensure that complainants are advised of the progress in investigating their complaints.

**59 Prison, parole office and probation office must have internal complaints procedure**

(1) In the prison, parole office and probation office, there must be an internal complaints procedure that enables complaints to be dealt with internally on a formal basis.

(2) The Controller or controlling officer of the parole and probation office must ensure that the internal complaints procedure for that place complies with the objectives set out in regulation 27.

(3) Notices must be prominently displayed in each cell in the prison, in each parole and probation office, that explain –

- (a) The complaints investigations process generally; and
- (b) How persons under control or supervision may request interviews or making formal complaints; and
- (c) The right of persons under control or supervision to request, at any time, assistance from the Superintendent or Controller.

**60 Assistance to make complaints**

(1) The Superintendent must ensure that a person under control or supervision is given the opportunity to –

- (a) Obtain assistance to enable the person to make a complaint; or
- (b) Verify any information recorded on a form or other document outlining a complaint.

(2) The Superintendent must ensure that any person who is under control or supervision who has difficulties with verbal or written communication is provided with assistance –

- (a) To complete any required documents; and
- (b) To prepare or present his case.

**61 Persons under or previously under control or supervision may seek assistance from Controller**

A person who is or was under control or supervision may, at any time, seek assistance from the Controller for the purpose of making a complaint.

**62 Investigation of complaints by Controller**

(1) The Controller may investigate a complaint in any manner that he considers appropriate (which may include, without limitation, referring the complaint to another person for consideration).

(2) While investigating a complaint, the Controller must be given access to –

- (a) Any person within the prison, parole or probation office, or to any person at any other place (including a dwelling house) at which the complainant is or was detained or required to attend, work, or live; and
- (b) Any other person who is or was responsible for –
  - (i) the supervision of a complainant while the complainant carries or carried out his sentence or order; or
  - (ii) the performance of any escort or courtroom custodial duties in relation to the complaint; and
- (c) Any records held by an employee of the department or any other person referred to in subparagraph (a) or (b) that are relevant to the complaint.

(3) If the Controller investigates a complaint, he must conduct the investigation reasonably promptly, and must inform the complainant and the other person concerned, promptly after the conclusion of the investigation, in a matter that he considers appropriate of –

- (a) The result of the investigation; and
- (b) Any further action that the inspector proposes to take in respect of the complaint.

(4) The Controller must keep records of every complaint that he receives and deals with.

### **63 Powers of entry and access by Controller**

(1) For the purpose of performing any functions as the Controller, he may at any time, enter the prison, parole or probation office, or any other place (including a dwelling house) at which a person under control of supervision is or was detained or required to attend, work, live, and gain access to –

- (a) All parts of that place;
- (b) All persons under control or supervision in that place;
- (c) All persons with responsibility for the control or supervision of those persons in that place, and visitors to that place;
- (d) If the place is the prison, parole or probation office, all records stored in that place that relate to –
  - (i) the place;
  - (ii) a person who is or was under control or supervision; or
  - (iii) an officer employed at that place.

(2) For the purpose of performing any functions as the Controller, he may at any time, enter any vehicle that is or was being used for the transportation of any person under control or supervision during any period of that person's detention.

(3) Despite regulation 62 (2) (a) and paragraphs (1) and (2) of this regulation, the Controller –

- (a) Must not enter a dwelling house without the consent of any person who appears to be the occupier of the dwelling house;
- (b) Must not enter any part of a place at which a person under control or supervision is required to live, work, or attend (other than the actual part of the place in or at which the person is required to live, work, or attend) without the consent of the person who appears to be the occupier of that place;
- (c) Must not enter a vehicle that is not owned by the department, unless the owner or driver of the vehicle consents to that entry.

### **64 Interviews with Controller**

(1) If the Controller visits the prison, parole or probation office, or any other place for the purpose of interviewing persons under control or supervision, all the persons under control or supervision at that place are entitled to an interview with the Controller.

(2) If the Controller visits the prison, parole or probation office, or other place for a purpose other than to interview persons under control or supervision, a person under control or supervision at that place may ask for an interview with the inspector and that inspector may agree to the interview.

(3) No person under control or supervision may be required to disclose to any person with responsibility for the control or supervision of that person the reason why the person asked for an interview with the Controller.

**65 Recommendations and directions of Controller**

(1) The Controller may, either during or following the completion of an investigation –

- (a) Make any recommendations that he considers appropriate about practices or procedures to any person who he considers is the appropriate person to receive the recommendation;
- (b) Issue any direction to a person with responsibilities for the control or supervision of any person that he considers necessary to avoid or reduce any immediate danger to the complainant or any other person.

(2) A direction given under paragraph (1)(b) may be revoked at any time by the Superintendent.

(3) If the Superintendent revokes a direction given under paragraph (1)(b) he must promptly inform the Minister of that revocation and the reasons for it.

## SEA CARRIAGE OF GOODS ACT 1940

1940/31 (NZ) – 1 December 1946

<p>1 Short title</p> <p style="text-align: center;">PART 1</p> <p>2-6 [Repealed]</p> <p style="text-align: center;">PART 2</p> <p style="text-align: center;">CARRIAGE BY SEA FROM NIUE</p> <p>7 Application of Rules in Schedule</p> <p>8 Absolute warranty of seaworthiness not to be implied</p> <p>9 Statement as to application of Rules to be included in bills of lading</p>	<p>10 Modification of Rules 4 and 5 of article 3 in relation to bulk cargoes</p> <p style="text-align: center;">PART 3</p> <p style="text-align: center;">GENERAL PROVISIONS</p> <p>11 Lodging of claims for damage, short delivery, and pillage</p> <p>12 Bill of lading to be binding if signed by authorised person</p> <p>13 Saving</p> <p style="text-align: center;">SCHEDULE</p>
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### To amend the law relating to the carriage of goods by sea

- 1 Short title**  
This is the Sea Carriage of Goods Act 1940.
- PART 1
- 2-6 [Repealed by 2004/270]
- PART 2
- CARRIAGE BY SEA FROM NIUE
- 7 Application of Rules in Schedule**  
Subject to this Act, the Rules contained in the Schedule shall have effect in relation to and in connection with the carriage of goods by sea in ships from the port in Niue to any port outside Niue.
- 8 Absolute warranty of seaworthiness not to be implied**  
There shall not be implied in any contract for the carriage of goods by sea to which the Rules apply any absolute undertaking by the carrier of the goods to provide a seaworthy ship.
- 9 Statement as to application of Rules to be included in bills of lading**  
(1) Every bill of lading or similar document of title issued in Niue which contains or is evidence of any contract to which the Rules apply shall contain an express statement that it is to have effect subject to the Rules as applied by this Act.  
(2) Every owner, charterer, master, or agent who issues any such bill of lading or similar document of title without complying with this section shall be liable on conviction to a fine of 2 penalty units.

**10 Modification of Rules 4 and 5 of article 3 in relation to bulk cargoes**

Where under the custom of any trade the weight of any bulk cargo inserted in a bill of lading to which the Rules apply is a weight ascertained or accepted by a third party other than the carrier or the shipper and the fact that the weight is so ascertained or accepted is stated in the bill of lading, then, notwithstanding anything to the contrary in the Rules, the bill of lading shall not be deemed to be prima facie evidence against the carrier of the receipt of goods of the weight so inserted in the bill of lading, and the accuracy of it at the time of shipment shall not be deemed to have been guaranteed by the shipper.

**PART 3****GENERAL PROVISIONS****11 Lodging of claims for damage, short delivery, and pillage**

- (1) (a) The agents in Niue of any ship not registered in Niue shall be deemed to be the legal representatives of the master and the owner or charterer of the ship after the departure of the ship from the port at which she was discharged for the purpose of receiving and paying claims for short delivery, damage, or pillage of cargo, and the amount of any such claim may be recovered from the agents in any court of competent jurisdiction.
- (b) It shall be lawful for the agents, by notice in writing delivered to the Financial Secretary, not later than 24 hours before the departure of any ship, to decline to accept any responsibility under this section in respect of that ship, in which case the master and some other person approved by the Revenue Manager shall, before the ship is allowed her clearance, enter into a joint and several bond in a sum not exceeding the value of her cargo, as shown by the ship's papers, for the payment of any sum which, together with costs, may be recovered against the agents of the ship.
- (2) No proceedings for the recovery of any claim under this section shall be taken unless notice in writing giving reasonable particulars of the damage or loss is given to the agents and the proceedings commenced within one year after the delivery of the cargo or the date when the cargo should have been delivered.
- (3) Nothing in this section shall prevent the agents from raising any defence available to their principal and, in particular but not in limitation, any defence available to their principal by virtue of the provisions of Rule 6 of article 3 of the rules relating to bills of lading contained in the Schedule.

**12 Bill of lading to be binding if signed by authorised person**

Every bill of lading or other shipping document relating to the carriage of goods issued by the manager, agent, master, owner or charterer of a ship, and signed by any person purporting to be authorised to sign it, shall be binding on the master and the owner or charterer of the ship as if the bill of lading or other document had been signed by the master.

**13 Savings**

Nothing in this Act shall affect the operation of section 15A of the Mercantile Law Act 1908.

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## SCHEDULE

## RULES RELATING TO BILLS OF LADING

*Article 1 – Definitions*

In these Rules the following expressions have the meanings hereby assigned to them respectively, that is to say –

- (a) “carrier” includes the owner or the charterer who enters into a contract of carriage with a shipper;
- (b) “contract of carriage” applies only to contracts of carriage covered by a bill of lading or any similar document of title, in so far as such document relates to the carriage of goods by sea, including any bill of lading or any similar document as aforesaid issued under or pursuant to a charter party from the moment at which such bill of lading or similar document of title regulates the relations between a carrier and a holder of the same;
- (c) “goods” includes goods, wares, merchandise, and articles of every kind whatsoever, except live animals and cargo which by the contract of carriage is stated as being carried on deck and is so carried;
- (d) “ship” means any vessel used for the carriage of goods by sea;
- (e) “carriage of goods” covers the period from the time when the goods are loaded on to the time when they are discharged from the ship.

*Article 2 – Risks*

Subject to Article 6, under every contract of carriage of goods by sea the carrier, in relation to the loading, handling, stowage, carriage, custody, care, and discharge of such goods, shall be subject to the responsibilities and liabilities, and entitled to the rights and immunities hereinafter set forth.

*Article 3 – Responsibilities and Liabilities*

1 The carrier shall be bound, before and at the beginning of the voyage, to exercise due diligence to –

- (a) Make the ship seaworthy;
- (b) Properly man, equip, and supply the ship;
- (c) Make the holds, refrigerating and cool chambers, and all other parts of the ship in which goods are carried fit and safe for their reception, carriage, and preservation.

2 Subject to Article 4, the carrier shall properly and carefully load, handle, stow, carry, keep, care for, and discharge the goods carried.

3 After receiving the goods into his charge, the carrier, or the master or agent of the carrier, shall, on demand of the shipper, issue to the shipper a bill of lading showing, among other things –

- (a) The leading marks necessary for identification of the goods as the same are furnished in writing by the shipper before the loading of such goods starts, provided such marks are stamped or otherwise shown clearly upon the goods if uncovered, or on the cases or coverings in which such goods are contained, in such a manner as should ordinarily remain legible until the end of the voyage;
- (b) Either the number of packages or pieces, or the quantity, or weight, as the case may be, as furnished in writing by the shipper;
- (c) The apparent order and condition of the goods:



Provided that no carrier, master, or agent of the carrier shall be bound to state or show in the bill of lading any marks, number, quantity, or weight which he has reasonable ground for suspecting not accurately to represent the goods actually received, or which he has had no reasonable means of checking.

4 Such a bill of lading shall be prima facie evidence of the receipt by the carrier of the goods as therein described under Rule 3(a), (b) and (c).

5 The shipper shall be deemed to have guaranteed to the carrier the accuracy at the time of shipment of the marks, number, quantity, and weight, as furnished by him, and the shipper shall indemnify the carrier against all loss, damages, and expenses arising or resulting from inaccuracies in such particulars. The right of the carrier to such indemnity shall in no way limit his responsibility and liability under the contract of carriage to any person other than the shipper.

6 Unless notice of loss or damage and the general nature of such loss or damage be given in writing to the carrier or his agent at the port of discharge before or at the time of the removal of the goods into the custody of the person entitled to delivery of it under the contract of carriage, or, if the loss or damage be not apparent, within 3 days, such removal shall be prima facie evidence of the delivery by the carrier of the goods as described in the bill of lading.

The notice in writing need not be given if the state of the goods has at the time of their receipt been the subject of joint survey or inspection.

In any event the carrier and the ship shall be discharged from all liability in respect of loss or damage unless suit is brought within one year after delivery of the goods or the date when the goods should have been delivered.

In the case of any actual or apprehended loss or damage the carrier and the receiver shall give all reasonable facilities to each other for inspecting and tallying the goods.

7 After the goods are loaded the bill of lading to be issued by the carrier, master, or agent of the carrier to the shipper shall, if the shipper so demands, be a "shipped" bill of lading:

Provided that if the shipper shall have previously taken up any document of title to such goods he shall surrender the same as against the issue of the "shipped" bill of lading, but at the option of the carrier such document of title may be noted at the port of shipment, by the carrier, master, or agent with the name or names of the ship or ships upon which the goods have been shipped and the date or dates of shipment, and when so noted the same shall, for the purpose of this article, be deemed to constitute a "shipped" bill of lading.

8 Any clause, covenant or agreement in a contract of carriage relieving the carrier or the ship from liability for loss or damage to or in connection with goods arising from negligence, fault, or failure in the duties and obligations provided in this article or lessening such liability otherwise than as provided in these Rules shall be null and void and of no effect.

A benefit of insurance or similar clause shall be deemed to be a clause relieving the carrier from liability.

*Article 4 – Rights and Immunities*

1 Neither the carrier or the ship shall be liable for loss or damage arising or resulting from unseaworthiness unless caused by want of due diligence on the part of the carrier to make the ship seaworthy, and to secure that the ship is properly manned, equipped, and supplied, and to make the holds, refrigerating and cool chambers, and all other parts of the ship in which goods are carried fit and safe for their reception, carriage, and preservation under Rule 1 of Article 3.

Whenever loss or damage has resulted from unseaworthiness, the burden of proving the exercise of due diligence shall be on the carrier or other person claiming exemption under this rule.

2 Neither the carrier nor the ship shall be responsible for loss or damage arising or resulting from –

- (a) Act, neglect, or default of the master, mariner, pilot, or the servants of the carrier in the navigation or in the management of the ship;
- (b) Fire, unless caused by the actual fault or privity of the carrier;
- (c) Perils, dangers, and accidents of the sea or other navigable waters;
- (d) Act of God;
- (e) Act of war;
- (f) Act of public enemies;
- (g) Arrest or restraint of princes, rulers, or people, or seizure under legal process;
- (h) Quarantine restrictions;
- (i) Act or omission of the shipper or owner of the goods, his agent or representative;
- (j) Strikes or lockouts or stoppage or restraint of labour from whatever cause, whether partial or general;
- (k) Riots and civil commotions;
- (l) Saving or attempting to save life or property at sea;
- (m) Wastage in bulk or weight or any other loss or damage arising from inherent defect, quality, or vice of the goods;
- (n) Insufficiency of packing;
- (o) Insufficiency or inadequacy of marks;
- (p) Latent defects not discoverable by due diligence;
- (q) Any other cause arising without the actual fault or privity of the carrier, or without the fault or neglect of the agents or servants of the carrier; but the burden of proof shall be on the person claiming the benefit of this exception to show that neither the actual fault or privity of the carrier nor the fault or neglect of the agents or servants of the carrier contributed to the loss or damage.

3 The shipper shall not be responsible for loss or damage sustained by the carrier or the ship arising or resulting from any cause without the act, fault, or neglect of the shipper, his agents, or his servants.

4 Any deviation in saving or attempting to save life or property at sea, or any reasonable deviation shall not be deemed to be an infringement or breach of these Rules or of the contract of carriage, and the carrier shall not be liable for any loss or damage resulting therefrom.

5 Neither the carrier nor the ship shall in any event be or become liable for any loss or damage to or in connection with goods in an amount exceeding 200 dollars per package or unit, or the equivalent of that sum in other currency, unless the nature and value of such goods have been declared by the shipper before shipment and inserted in the bill of lading.

This declaration if embodied in the bill of lading shall be prima facie evidence, but shall not be binding or conclusive on the carrier.

By agreement between the carrier, master, or agent of the carrier and the shipper another maximum amount than that mentioned in this rule may be fixed:

Provided that such maximum shall not be less than the figure above named.

Neither the carrier nor the ship shall be responsible in any event for loss or damage to or in connection with goods if the nature or value thereof has been knowingly misstated by the shipper in the bill of lading.

6 Goods of an inflammable, explosive, or dangerous nature to the shipment whereof the carrier, master, or agent of the carrier has not consented with knowledge of their nature and character may at any time before discharge be landed at any place or destroyed or rendered innocuous by the carrier without compensation, and the shipper of such goods shall be liable for all damages and expenses directly or indirectly arising out of or resulting from such shipment.

If any such goods shipped with such knowledge and consent shall become a danger to the ship or cargo, they may in like manner be landed at any place or destroyed or rendered innocuous by the carrier without liability on the part of the carrier except to general average, if any.

*Article 5 – Surrender of Rights and Immunities, and Increase of Responsibilities and Liabilities*

A carrier shall be at liberty to surrender in whole or in part all or any of his rights and immunities or to increase any of his responsibilities and liabilities under the Rules contained in any of these articles:

Provided such surrender or increase shall be embodied in the bill of lading issued to the shipper.

The provisions of these Rules shall not be applicable to charter parties, but if bills of lading are issued in the case of a ship under a charter party they shall comply with the terms of these Rules. Nothing in these Rules shall be held to prevent the insertion in a bill of lading of any lawful provision regarding general average.

*Article 6 – Special Conditions*

Notwithstanding the preceding articles, a carrier, master, or agent of the carrier, and a shipper, shall in regard to any particular goods be at liberty to enter into any agreement in any terms as to the responsibility and liability of the carrier for such goods, and as to the rights and immunities of the carrier in respect of such goods, or his obligation as to seaworthiness, so far as this stipulation is not contrary to public policy, or the care or diligence of his servants or agents in regard to the loading, handling, stowage, carriage, custody, care, and discharge of the goods carried by sea, provided that in this case no bill of lading has been or shall be issued and that the terms agreed shall be embodied in a receipt which shall be a non-negotiable document and shall be marked as such.

Any agreement so entered into shall have full legal effect.

Provided that this article shall not apply to ordinary commercial shipments made in the ordinary course of trade, but only to other shipments where the character or condition of the property to be carried or the circumstances, terms, and conditions under which the carriage is to be performed are such as reasonably to justify a special agreement.

*Article 7 – Limitations on the Application of the Rules*

Nothing herein contained shall prevent a carrier or a shipper from entering into any agreement, stipulation, condition, reservation, or exemption as to the responsibility and liability of the carrier or the ship for the loss or damage to or in connection with the custody and care and handling of goods prior to the loading on and subsequent to the discharge from the ship on which the goods are carried by sea.

*Article 8 – Limitation of Liability*

The provisions of these Rules shall not affect the rights and obligations of the carrier under any statute for the time being in force relating to the limitation of the liability of owners of sea-going vessels.

*Article 9*

The monetary units mentioned in these Rules are to be taken to be New Zealand currency.

# NIUE BANK

## NIUE BANK REGULATIONS 1994

1994/1 – 8 June 1994

### 1 Title

These are the Niue Bank Regulations 1994.

### 2 Interpretation

In these Regulations –

“Act” means the Niue Bank Act 1994;

“advertisement” means any form of communication made to the public or a section of the public for the purpose of promoting a Registered Bank, a Registered Bank’s services, any security issued or to be issued by the Registered Bank or any other matter related to the Registered Bank;

“Registered Bank” means a bank registered with the Niue Bank under Part 6 of the Act.

### 3 Administration of Acts

The Niue Bank shall administer the following Acts –

(a) –

(b) –

(c) The Trustee Companies Act 1994; and

(d) The Niue Development Bonds Act 1994.

### 4 Content of advertisements

(1) No advertisement shall contain any information, sound, image or other matter that is likely to deceive, mislead, or confuse with regard to any particular that is contained or referred to in the advertisement.

(2) No advertisement shall contain any information, sound, image, or other matter that is inconsistent with any prospectus referred to in the advertisement.

(3) No advertisement that refers to a registered prospectus shall contain, or be distributed with, a form of application to subscribe for securities.

(4) No advertisement shall state or imply that the securities to which it relates are guaranteed by any person without also stating –

(a) The name of the guarantors; and

(b) The nature and amount of the guarantee; and

(c) Whether or not the guarantee is secured, and if so, the nature and amount of the security:

Provided that subparagraphs (b) and (c) shall not apply if the Crown is the guarantor and its guarantee is unconditional, or subject only to the condition that the issuer or any other person has failed to repay the securities.

- (5) No advertisement shall –
- (a) State the amount of assets or net assets, of any person or persons other than the total assets, or net assets, of the issuing group of borrowing group, or mortgagor under a contributory mortgage (as the case may be), or of a guarantor of the securities to which the advertisement relates; or
  - (b) State the amount of the total assets of the issuing group, borrowing group or mortgagor under a contributory mortgage, or guarantor without also stating with equal prominence the amount of the total liabilities of the group, mortgagor or guarantor; or
  - (c) State the amount of net assets or the amounts of the assets and liabilities in an issuing group, borrowing group, guarantor or mortgagor unless under a contributory mortgage unless the amounts shown appear in the most recent audited consolidated balance sheet of the group, mortgagor, or guarantor (being a balance sheet dated not earlier than 18 months before the date of distribution of the advertisement) and the advertisement states the date of the balance sheet as being the date at which the amount, or amounts, have been calculated.
- (6) No advertisement shall state the amount of the authorised capital or issued capital of a registered bank unless the amount is described as such and the advertisement also states with equal prominence, and describes as such, the amount of the capital of the registered bank that is credited as paid up.
- (7) No advertisement shall refer to any debt securities without also stating that either that the securities are unsecured or the nature and ranking in point of security of the securities.
- (8) An advertisement shall not state or imply that participatory securities are secured, other than by use of the words “secured” accompanied by a statement of the nature and ranking in point of security of the securities.
- (9) No advertisement shall contain a profit forecast unless the advertisement refers to a registered prospectus and the profit forecast is also combined in the registered prospectus.
- (10) No advertisement shall be distributed to the public unless the certificate that complies with paragraph (11) has been completed in respect of the advertisement at the time at which the advertisement is so distributed.
- (11) A certificate for the purposes of paragraph (10) shall be in the form set out in the Schedule and shall be signed –
- (a) By a person authorised by the Board of Directors of the registered bank to sign such certificates; or
  - (b) Where the registered bank has only one director resident in Niue by that director; or
  - (c) In every other case by at least 2 persons, each of whom is one of the following persons –
    - (i) A director of the registered bank to which the advertisement relates; or
    - (ii) Where none of the directors of the registered bank resides in New Zealand, a person authorised by the directors to sign such certificate.
- (12) Paragraph (10) shall not apply –
- (a) In respect of an authorised advertisement that contains no information or a matter other than -

- (i) The name, business address, postal address, telephone number, and telex number of the registered bank and the logo customarily used by the registered bank; and
  - (ii) A description of any securities being offered, the terms of the relevant offer and a brief description of any rights or privileges attaching thereto; and
  - (iii) A statement of the rate or rates of interest (if any) that may be earned by holding any securities being offered;
- (b) In respect of any advertisement if the only difference between the advertisement and another advertisement in respect of which a certificate that complies with paragraph (11) has been completed is that a rate or rates of interest shown in one of the advertisements differ from the rate or rates of interest shown in the other advertisement.

(13) Every certificate completed in respect of an advertisement for the purposes of this regulation shall be held by the registered bank to which the advertisement relates for at least 12 months from the date of the last distribution of the advertisement.

- (14) (a) If a registered bank fails to comply with paragraph (13), the registered bank and every principal officer thereof commits an offence;
- (b) It shall be a defence to a charge against a principal officer under this provision if the defendant proves that the disposal of the certificate by the registered bank took place without his knowledge or against his advice.

(15) Without limiting paragraph (16), every person commits an offence who –

- (a) Being a publisher of a newspaper or magazine, distributes an advertisement to the public in contravention of paragraph (10) by means of that newspaper or magazine;
- (b) Being the operator of a broadcasting station, distributes an advertisement to the public in contravention of paragraph (10) by means of a broadcasting station; or
- (c) Being the exhibitor of a film distributes an advertisement to the public, in contravention of paragraph (10) by means of exhibition of that film:

Provided that it should be a defence to a charge under this paragraph if the defendant proves that, at the time the advertisement was so distributed, he had reasonable grounds to believe, and did believe, that a certificate that complied with paragraph (10) had been completed in respect of the advertisement.

(16) Without limiting paragraph (15), if an advertisement is distributed to the public in contravention of paragraph (10), the registered bank and every principal officer thereof, commits an offence:

Provided that it shall be a defence to a charge under this paragraph if –

- (a) The defendant proves that the advertisement was distributed without his knowledge or against his advice; or
- (b) The defendant is a principal officer and he proves that, at the time the advertisement was so distributed, he had reasonable grounds to believe, and did believe, that a certificate that complied with paragraph (10) had been completed in respect of the advertisement.

(17) Every person who commits an offence against paragraphs (10) to (16) is liable on summary conviction to a fine not exceeding 50 penalty units.



(18) No advertisement shall state or imply that any securities to which it relates are made or may become authorised trust investments without also stating any conditions that remain to be fulfilled before the securities qualify as authorised investments under the Trusts Act 1994.

(19) No advertisement shall state that investment in the securities to which it may relate is safe or free from risk.

(20) No advertisement shall state the rate or rates of interest that may be earned by holding securities unless the advertisement states any minimum amount or amounts of the securities that would have to be held and any minimum of period or periods during which the securities would have to be held, in order to earn that rate or those rates.

(21) No advertisement shall –

- (a) State a rate of interest payable in respect of a security that has been adjusted for the purposes of taking into account the incidence of taxation of the interest; or
- (b) Otherwise refer to the taxation of interest earned by holding securities, except that, subject to paragraphs (1) and (2), an advertisement may include a statement to the effect that in certain circumstances there may be tax advantages in holding the securities referred to in the investment and that (if applicable) there is set out in a prospectus a full statement of those advantages.

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## SCHEDULE

### CERTIFICATE IN RESPECT OF ADVERTISEMENTS

I (or We) certify that –

- (a) I (or We have) –
  - \**(i)* read
  - \**(ii)* seen
  - \**(iii)* listened to, the advertisement described in the Schedule to this certificate.
- (b) The advertisement complies with the Niue Bank Act 1994 and the Niue Bank Regulations 1994.
- (c) The advertisement does not contain any matter that –
  - (i) is likely to deceive, mislead or confuse with regard to any material particulars; or
  - \**(ii)* is inconsistent with any registered prospectus referred to in the advertisement.

Signature of Director (or Authorised Signatory): .....

Date of Signing: .....

Signature of Director (or Authorised Signatory): .....

Date of Signing: .....

## ADVERTISEMENT

(The description must be sufficient to enable the advertisement to be identified.)

*\*Delete if inapplicable*

## PARTNERSHIP

### PARTNERSHIP AMENDMENT FEES REGULATIONS 1994

1994/4 – 8 June 1994

- 1 Title**  
These are the Partnership Amendment Fees Regulations 1994.
- 2 Interpretation**  
In these Regulations –  
“Act” means the Partnership Application Act 1994;  
“Registrar” means the Registrar appointed under section 11 of the Act.
- 3 Application fees**  
Where an application for registration of a limited liability partnership is lodged with the Registrar under section 12 of the Act, it shall be accompanied by a fee of \$250.
- 4 Renewal fee**  
Where an application for renewal of registration of a limited liability partnership is lodged with the Registrar under section 13 of the Act, it shall be accompanied by a fee of \$100.
- 5 Payment of fees**  
All fees prescribed by these Regulations shall be refundable if the relevant application is declined.



## PARTNERSHIP APPLICATION PARTNERSHIP AMENDMENT FORMS REGULATIONS 1995

1995/2 – 1 July 19956

1 Title	4 Application for renewal of registration form
2 Interpretation	5 Guarantee form
3 Application for registration form	6 Certificate of registration form

### 1 Title

These are the Partnership Amendment Forms Regulations 1995.

### 2 Interpretation

In these Regulations –  
“Act” means the Partnership Application Act 1994.

### 3 Application for registration form

Application for registration as Limited Liability Partnerships as required under section 12(2) of the Act is to be in the form prescribed in Schedule 1.

### 4 Application for renewal of registration form

Application for renewal of registration as required under section 13(2) of the Act is to be in the form prescribed in Schedule 2.

### 5 Guarantee form

The several guarantee from the partners as required under section 12(4) of the Act is to be in the form prescribed in Schedule 3.

### 6 Certificate of registration form

The certificate of registration as required under section 12(6) of the Act is to be in the form prescribed in Schedule 4.

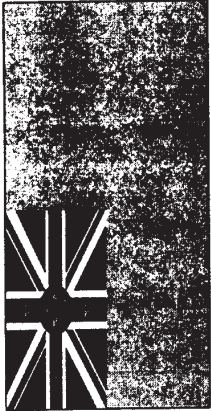
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SCHEDULE 4

Partnership Amendment

FORM LLP4  
(Section 12(6))



Government of Niue  
Office of the Registrar for Limited Liability Partnerships

*Certificate of Registration* (section 13)

LLP No.

I,

Registrar of Limited Liability Partnerships DO HEREBY CERTIFY that,

was duly registered in Niue as a Limited Liability Partnership this

day of

199

Given under my hand and seal

.....  
Registrar





## PENSIONS AND BENEFITS

### PENSIONS AND BENEFITS REGULATIONS 1998

1998/7 – 13 October 1988

- 1 **Title**  
These are the Pensions and Benefits Regulations 1998.
- 2 [Spent]
- 3 **Interpretation**  
In these Regulations, “Act” means the Pensions and Benefits Act 1991.
- 4 **Rate of pension**  
The rate of pension payable under section 4 of the Act is –
  - (a) In the case of a person who has not attained the age of 70 years – \$2080 a year; and
  - (b) In any other case – \$2210 a year.
- 5 **Rate of welfare benefit**  
The maximum rate of benefit for the purpose of section 13 of the Act is –
  - (a) In the case of a person considered by the Welfare Committee to be a person with a severe disability – \$2210 a year; and
  - (b) In any other case – \$1950 a year.



## PUBLIC HEALTH

[EDITORIAL NOTE: The International Sanitary Regulations 1951 are not reproduced. The Regulations in current form may be accessed at: [http://www.searo.who.int/en/section10/section369\\_9695.htm](http://www.searo.who.int/en/section10/section369_9695.htm)]

### NOTIFIABLE DISEASES NOTICE 1991

1991/6 – 1 October 1991

- 1 Title**  
This is the Notifiable Diseases Notice 1991.
- 2 Notifiable diseases**  
The diseases named in the Schedule are notifiable diseases for the purposes of the Public Health Act 1965.

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#### SCHEDULE

Aids  
Cholera  
Dengue fever  
H.I.V. Virus  
Leprosy

Plague  
Relapsing fever  
Smallpox  
Typhus  
Yellow Fever



## PUBLIC REVENUES

### TREASURY RULES 1960

(1 October 1961)

- 1 These are the Treasury Rules 1960.
- 2 In these Rules "Act" means the Public Revenues Act 1959.

#### BANKING OF MONEY IN NEW ZEALAND

3 (1) Public money kept in New Zealand for disbursement shall be kept at the Reserve Bank of New Zealand in an account to be called the Niue Administration Account.

(2) Public money kept in New Zealand on fixed deposit shall be kept at a branch of the Bank of New Zealand in an account to be called the Niue Assembly Cash Investment Account.

(3) (a) The Financial Secretary may remit to the Reserve Bank of New Zealand to the credit of the appropriate account such public money as in his opinion is not required in Niue for immediate disbursement and he may invest or cause to be invested part or all of such money either on fixed deposit or in such securities as in New Zealand are authorised for the investment of public money.

(b) Nothing in paragraph (1) shall prevent the Treasury from investing public money in Niue in a Post Office Savings Bank or in a bank in Niue.

#### SIGNING OF CHEQUES

4 Cheques drawn on the Niue Administration Account or on any bank account shall be signed by the Financial Secretary or other officer appointed by Cabinet to act in his stead.

#### ACCOUNTING OFFICERS

5 Every accounting officer as defined by the Act shall be subject to these rules and shall perform such duties, keep such books, and render such accounts as are prescribed by these rules, or directed by the Financial Secretary.

6 Every accounting officer shall, if so required by the Financial Secretary, provide security for such sum and in such manner and form as the Financial Secretary directs for the due accounting for and payment of all money which comes into his charge, custody, or control.

7 If an accounting officer is requested to make a payment or accept a charge of credit, or take any other action which in his opinion is not lawfully authorised or is otherwise incorrect, he must state his objection in writing to the head of his Department, who shall, if he disagrees with the officer, forthwith report the circumstances to the Financial Secretary.

## AUTHORISATION OF EXPENDITURE

**8** Cabinet shall authorise all expenditure provided for in the Appropriation Act and may delegate to any officer or officers as he thinks fit such of his powers to authorise expenditure as he deems necessary.

## COLLECTION OF MONEY

**9** Every person collecting, receiving, or having control over any money payable into the Niue Government Account or into any deposit, or trust, or separate account, is a Receiver within the meaning of these rules.

**10** (1) The full amount of all collections of public money shall be paid to the Treasury unless the Financial Secretary directs otherwise.

(2) Paragraph (1) shall not apply to public money required by statutory or other lawful authority to be otherwise dealt with, and all such money shall be dealt with under the statutory or other requirement.

**11** Except where the Financial Secretary directs otherwise, there shall be given to every person paying any money to be credited as public money to the Niue Government Account or to any deposit, or trust, or other account of the Government, an official receipt in the form approved by and printed under the authority of the Treasury.

**12** Public money shall not be involved with private funds.

**13** Every Receiver shall keep a cash book in the form approved by the Financial Secretary and shall enter the amount of his collections and the manner of their disposal.

**14** (1) The Financial Secretary shall prescribe the times and the manner in which each Receiver shall balance his cash book and forward a copy of the summary of it to the Financial Secretary.

(2) The cash book shall be balanced at least once each calendar month.

**15** Money received by way of deposit shall be dealt with in the manner provided for the collection of other public money except where the Financial Secretary directs otherwise.

**16** The Financial Secretary may at any time arrange for money held on deposit, and not immediately required, to be invested in a Post Office Savings Bank.

**17** Receivers shall apply to the Treasury for all books of receipts required by them and for all forms of licence and certificate on the issue of which they are required to collect a fee.

## PAYMENT OF MONEY

**18** (1) All vouchers for the expenditure of public money shall be signed by an officer designated a certifying officer.

(2) A certifying officer shall be appointed by Cabinet on the recommendation of the head of his Department and shall have such duties and responsibilities as to certification as are prescribed by the Financial Secretary.

**19** All expenditure of public money shall be approved by Cabinet to ensure that payment vouchers have been properly certified, that the charging of expenditure is correct as to vote, item and account, and that authority exists for the expenditure.

**20** All claims on the Government must be entered on a voucher form approved by and printed under the authority of the Financial Secretary.

**21** (1) Payment of salaries or wages to all persons employed in the Public Service shall, unless the Financial Secretary approves otherwise, be made in cash.

(2) The Financial Secretary may, on receipt of a request in writing from the person entitled to it, pay any such salary to a bank or Post Office Savings Bank for the credit of that person.

**22** Officers or other persons travelling on Government service must obtain receipts for such disbursements as are directed by the Financial Secretary.

**23** Payments of claims shall be made in such manner as the Financial Secretary may direct.

**24** (1) Except in the case of payments, under a power of attorney, letters of administration, or probate, payments to other than claimants themselves may be made only under the authority of the claimants given in the form approved by the Financial Secretary.

(2) Any such authority may be either general or special.

**25** (1) An authority under rule 24 shall be accepted by the Financial Secretary only for the convenience of claimants, who may revoke a general authority at pleasure.

(2) Authorities given by or on behalf of companies shall be signed by the directors or the managing director.

(3) The Financial Secretary shall not recognise or act upon any endorsement or addition to a form of general authority which purports to make the authority irrevocable or to alter in any way its substance or effect.

(4) A general authority must be renewed at the expiration of 2 years from its date of it if it is desired to keep it in force for any longer period, otherwise the Financial Secretary may regard the authority as cancelled.

(5) Orders made by employees of the Financial Secretary for the payment of salary to a bank or Post Office Savings Bank or for allotment of part salary or for deductions from salary shall remain in force until cancelled.

**26** (1) No authority from a public servant for the payment of his salary to any person other than that employee shall be accepted by the Financial Secretary except where the employee is unable to receive the salary himself on account of absence from office or other cause.

(2) This rule does not apply to an authority for payment to a Bank or Post Office Savings Bank or to any allotment of part salary or deductions from salary approved by the Financial Secretary.

**27** A public servant shall not, without the special approval in writing of the Financial Secretary, act as agent or attorney for the receipt of money due by the Government to a public creditor or claimant.



## IMPRESTS

28 (1) Payments by way of imprest shall be made under instructions issued by the Financial Secretary.

(2) The Financial Secretary shall direct the manner in which money shall be issued to an imprestee and how he shall account for it.

29 Where imprests are issued to persons not in receipt of salary or allowances on Government service, those persons shall account for the same in the manner set forth in those rules and the instructions issued by the Financial Secretary.

30 The application by an imprestee, receiver, or other accounting officer of any public money under his control for any purpose other than the proper purposes for which that money is available shall be deemed to be a misappropriation of public money and he shall be liable accordingly.

## RECEIPTS FOR PAYMENTS

31 (1) Except in special cases a receipt from the person legally entitled to receive payment shall be accepted as sufficient discharge for any payment.

(2) The paying officer may at any time require to be furnished with satisfactory evidence of the identity of a payee.

(3) The Financial Secretary may in any case require such further or other instrument or discharge to be executed by the payee in addition to or instead of a receipt, as may seem desirable in the circumstances.

(4) Where a receipt or endorsement does not appear to have been given or made by the person legally entitled to receive payment personally, evidence may be required of the authority of the person giving the receipt or making the endorsement to give a legal discharge for the money paid.

(5) The mark of any payee unable to write must be witnessed by a person other than the paying officer.

## DEPARTMENTAL ACCOUNTS

32 (1) Government departments shall keep such accounts and accounting records as the Financial Secretary may direct.

(2) The necessary forms for all books, accounts and documents required by Departments for properly carrying into effect the provisions of these Rules shall be such only as are prescribed or approved by the Financial Secretary.

(3) Where not inconsistent with these Rules the system of keeping departmental accounts and accounting records and the books and forms to be used shall at all times be subject to the control, supervision and inspection of the Financial Secretary.

33 (1) It shall be the duty of every head of a Government department or other employee of the Government to afford all information which the Government may require regarding the receipt and expenditure of public money, and the accounting for public money or stores under his control.

(2) The Financial Secretary may instruct any officer of the Treasury to inspect any books, accounts, documents, or stores, or other public property held by any Government department and the head of any such department shall afford facilities for such inspection.

## STORES

34 (1) The Financial Secretary shall prepare rules and shall issue instructions concerning the purchase, account for, management, control and disposal of public stores.

(2) Losses of stores, deficiencies in stores, and damage to stores shall be reported to the Financial Secretary.

35 (1) Employees of the Government shall not, either directly or indirectly, derive advantage from dealing in public stores.

(2) Sales of stores to employees shall not be permitted without the authority of the Financial Secretary.

(3) Free issues to employees shall not be made unless authorised in writing by the Financial Secretary.

## WRITING OFF MONEY OR STORES

36 No losses or deficiencies shall be included in the Annual Appropriation Act for discharge from the Niue Assembly Account except those previously concurred in by the Audit Office and the Cabinet.

37 No employee of the Government shall write off departmental charge any physical loss of cash or stores, debtor balances, claims abandoned, debts irrecoverable by the Crown, nugatory expenditure (meaning thereby any payment of public money involving an immediate and formal loss, or the payment of money in return for which no services have been rendered), or the cash value of issues in kind to any person whomsoever by way of allowance, until the authority of the Assembly has been obtained for the writing off in the annual appropriation Act.

## FINES

38 Any accounting officer or any other person subject to these Rules who commits any breach or who makes any error in any accounts rendered by him, or who fails to carry out any lawful direction of the Financial Secretary, shall be liable to a fine not exceeding such amount as may be specified in the Act to be imposed and to be recoverable as set out in the Act.

## APPLICATION OF RULES

39 (1) All money paid to the Postmaster shall be paid into the Post Office Account, and accounted for under the Regulations and instructions for the time being in force for the management of the Post Office, subject so far as relates to the receipt and payment of public money, to the approval of the Financial Secretary.

(2) Subject to this rule, and when not inconsistent therewith, these rules and any instructions issued by the Financial Secretary shall apply to all persons in the service of the Post Office.

40 (1) The receipts and payments of all departments of the Government operating outside the Government Account shall be dealt with under any regulations or instructions for the time being in force for the management of these departments, subject so far as relates to the receipt and payment of public money, to the approval of the Financial Secretary.

(2) Subject to the paragraph (1) and when not inconsistent therewith, these Rules and any instructions issued by the Financial Secretary shall apply to all persons in the service of any such department.



# TERRITORIAL SEA AND EXCLUSIVE ECONOMIC ZONE

## WHALE SANCTUARY REGULATIONS 2003

2003/1 – 14 May 2002

- 1 Title**

These are the Whale Sanctuary Regulations 2003.
- 2 Interpretation**
  - (1) In these Regulations the words and expressions used have the respective meanings as in the Territorial Sea and Exclusive Economic Zone Act 1997.
  - (2) In these Regulations, 'cetacean' includes –
    - All species of whales;
    - All species of dolphins; and,
    - All species of porpoises.
- 3 Niue Whale Sanctuary**
  - (1) The Whale Sanctuary is established in order to give formal recognition of the high level of protection already afforded to cetaceans in marine waters of Niue in accordance with international law.
  - (2) The Whale Sanctuary comprises the waters of the exclusive economic zone, the territorial sea and the internal waters as defined in the Territorial Sea and Exclusive Economic Zone Act 1997.
- 4 Protection measures**
  - (1) A person is guilty of an offence if the person kills, harms, harasses, takes or moves any cetacean in the Whale Sanctuary.
  - (2) A person is guilty of an offence if the person has in his or her possession any cetacean, cetacean part or cetacean product in the Whale Sanctuary.
  - (3) Unless evidence is produced to the contrary, any cetacean, cetacean part or cetacean product found in the possession of a person in the Whale Sanctuary, is deemed to have been taken in the Whale Sanctuary.
  - (4) A person is guilty of an offence if the person exports or facilitates the exportation from Niue of any cetacean, cetacean part or cetacean product.
  - (5) A person is guilty of an offence if the person imports or facilitates the importation into Niue of any cetacean, cetacean part or cetacean product.
  - (6) Any offence under this regulation is punishable on conviction by imprisonment for not more than 3 months, or a fine not exceeding 2,500 penalty units, or both.

**5 Non-lethal research permits**

(1) The Cabinet may approve the issuance of a permit for the purpose of non-lethal research intended for the conservation of cetaceans, if the Cabinet is satisfied that the non-lethal research will not result in the killing, harming, harassing, taking or moving of any cetaceans.

(2) The Cabinet may specify conditions in relation to any permit issued under this regulation.

(3) A person is not guilty of an offence under regulation 4 if the person carries out an activity authorised by a permit and under the conditions of the permit.

## TRANSPORT

### TRANSPORT (FEES) REGULATIONS 2005

2005/5 – 24 June 2003

**1 Title**

These are the Transport (Fees) Regulations 2005.

**2 Fees**

The fees prescribed for the purpose of the Transport Act 1964 are set out in the Schedule.

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**SCHEDULE**  
Driver's Licence

Type of Driver's Licence	Fee
First Licence Registration	\$15.00
Annual Licence	\$10.00
Visitor's Licence	\$10.00
Learner's Licence	\$5.00
Duplicate Licence (where original is lost or destroyed)	\$15.00

Motor Vehicle Registration

Type of Motor Vehicle	Fee
Motor cycle	25.00
Motor cycle for hire	30.00
Motor car, Pickup, Van and Light Truck	35.00
Heavy Trade Motor Vehicles	45.00
Motor Car, Van, Truck and others for hire	60.00
Tractor	25.00
Trailer	20.00

Annual Licence

	Fee
Motor Cycle and Motor Cycle for hire	30.00
Motor Car, Van, Pickup, Light Truck	45.00
All vehicles for hire (other than motor cycle)	80.00
Heavy Motor Trade vehicles	80.00
Trailer	10.00
Tractor	25.00
Business Use Vehicles	75.00
Duplicate Licence (where original is lost or destroyed)	10.00





## TRUSTEE

### TRUSTEES' COMMISSION RULES 1961

- 1 These Rules are the Trustees' Commission Rules 1961.
- 2 Every application to the Court under section 72 of the Trustee Act 1956, for the allowance to any person who is or has been a trustee of the property subject to any trust or to his personal representative of a commission or percentage out of that property shall be made by motion under the Rules of Court for the time being in force.
- 3 (1) Every such motion shall be supported by an affidavit or affidavits showing –
  - (a) How and when the trust was constituted, the names of all present and previous trustees thereof, and the period during which each held office;
  - (b) Such information as may be necessary to enable an order giving directions as to service to be made;
  - (c) Particulars of any commission or percentage out of the trust property previously allowed by the Court to, or taken in accordance with the instrument (if any) creating the trust or with the consent of the beneficiaries or otherwise by, each person who is or has been a trustee or the personal representative of a trustee;
  - (d) Whether any profit, benefit, or advantage has been derived directly or indirectly by any trustee of the trust property, or by any partner, relative, servant, or personal representative of any trustee, from or in connection with the administration thereof; and, if so, particulars of every such profit, benefit, and advantage;
  - (e) The amount of the allowance sought by each applicant, and the basis or principle by which the same is arrived at; and, if an order is sought under section 72(3) apportioning the total amount allowed, the basis on which the proposed apportionment is sought;
  - (f) If the trustees who or whose personal representatives are making the application have not been the only trustees since the inception of the trust, information as to the extent to which, up to the date to which a commission or percentage is applied for, the trust property has been realised and income got in and the administration of the trust carried on and its responsibilities discharged by each person who is or has been a trustee;
  - (g) If the application is not made at or about the time of the final distribution of the trust property, sufficient information to enable the Court to determine what commission or percentage (if any) should be ordered forthwith having regard to the extent to which the duties of the trusteeship have already been discharged, and the period likely to elapse before that final distribution, and the changes in trusteeship which may occur during that period, and other relevant facts.

(2) The information referred to in paragraph (1) (b) is such information as may be necessary to enable the Court to decide what persons or classes of persons are interested and by what means the interests of each such person or class of persons may be adequately represented where the questions raised by the motion relate to or affect or may affect –

- (a) The interests of several persons under any will, settlement, deed, instrument of gift, contract, or other instrument, or under any enactment; or
  - (b) The interests of infants, or of unborn persons, or of absentees; or
  - (c) The interests of the inhabitants of any locality represented by a local authority, or the interests of any similar class of persons; or
  - (d) The public interest.
- (3) With respect to any motion under rule 3 the Court may –
- (a) Direct any executor or trustee to represent infants, unborn persons, or absentees, or persons otherwise unrepresented, or otherwise provide for such representation;
  - (b) Direct that a guardian *ad litem* be appointed to represent any person where such a course appears necessary;
  - (c) Direct any person to represent others who have the like interests;
  - (d) Direct that any party or group of parties appear by a separate solicitor;
  - (e) Appoint counsel to represent any party separately as to all or any questions arising upon the motion, on such counsel undertaking to represent that party;
  - (f) –
  - (g) Direct that the Government Solicitor be served;
  - (h) Direct that any other Minister or functionary have notice of the motion;
  - (i) Direct that, with the consent of a Minister to be filed, any head of a Government Department or other officer or functionary may represent the public interest and direct that he be served;
  - (j) Direct that any local authority, public body, or other representative body of persons represent the inhabitants of any locality or any class of persons, unless it appears to the Court that their interests, or the interests of a considerable section of them, may be adverse to those of that local authority or public body or other representative body;
  - (k) Where a local authority, public body, or other representative body is itself the party moving, or is a party whose interests appear to the Court to be adverse to those of the inhabitants or class of persons represented by that local authority or body or a considerable section of them, direct in what manner those inhabitants or that class or that section shall be represented.

4 Subject to rules 5, 6 and 12 the following documents, duly verified by an affidavit or affidavits of a solicitor or public accountant, shall be filed in respect of every such motion –

- (a) A copy of the will or other instrument (if any) creating the trust;
- (b) Capital and income accounts of the trust or summarised statements thereof showing –
  - (i) The trust property and liabilities at the inception of the trust and at the date to which a commission or percentage is sought;

- (ii) The gross capital realisations and other capital receipts, and the capital liabilities discharged and investments of capital made, and distributions of capital to beneficiaries and other capital payments made, during the period from the inception of the trust to the date to which a commission or percentage is sought, distinguishing those received and made by the trustees who or whose personal representatives are making the application from those received and made by other trustees (if any);
- (iii) The gross income received and liabilities and outgoings discharged from income, and the distributions of income to beneficiaries, and other disbursements from income, during the last-mentioned period, distinguishing those received and made by the trustees who or whose personal representatives are making the application from those received and made by other trustees (if any);
- (iv) The sums retained by or paid to solicitors, accountants, auctioneers, land agents, commission agents, brokers, and other agents during the said period in respect of capital and income respectively.

5 (1) Unless the Court or a Judge otherwise orders, the accounts of the trustees or summarised statements previously kept or made for the purposes of the trust may be adopted for the purposes of the said motion.

(2) Any information required by rules 3 and 4 and not contained in those accounts or summarised statements (including any information required in respect of administration by other trustees) shall be supplied by supplementary accounts or summarised statements verified in each case by an affidavit of a public accountant or solicitor.

6 In so far as any information and accounts or summarised statements required in support of any such motion have been supplied in support of any previous application to the Court for a commission or percentage, of these rules shall be deemed to that extent to have been complied with in connection with that motion.

7 The Court may at any time refer the motion or any matter being part thereof or connected therewith to the Registrar for inquiry and report.

8 Unless the Court or a Judge otherwise orders, reasonable notice to the satisfaction of the Registrar of any appointment made by the Registrar to proceed with his inquiry shall be given to every person who was entitled to be served with the motion, unless he has given notice in writing to the Registrar that he does not intend to appear or be represented at the inquiry.

9 The evidence of every witness called on the inquiry before the Registrar shall be taken down in writing and signed by the witness, and shall accompany the Registrar's report to the Court.

10 (1) The Court may award costs to any applicant or other person affected by the application, whether any commission or percentage is allowed or not.

(2) If costs are allowed, all usual and proper disbursements, including agency charges, shall, unless the Court or a Judge otherwise orders, also be deemed to be allowed though not expressly mentioned.

**11** The Court may direct that any costs be paid out of the trust property or any part thereof.

**12** (1) The Court or a Judge, on motion made before or after the filing of a motion for a commission or percentage, and upon sufficient grounds, may by order dispense with the observance of all or any of the foregoing rules.

(2) A motion under this rule may in the first instance be made *ex parte*, but the Court or Judge may require notice to be given to such person or persons and in such manner as the Court or Judge may direct.

## **TRUSTEE COMPANIES**

[EDITORIAL NOTE: The subsidiary legislation is not reproduced here. It is listed for early repeal.]



## UNITED NATIONS

### UNITED NATIONS SANCTIONS (TERRORISM SUPPRESSION AND AFGHANISTAN MEASURES) REGULATIONS 2004

2004/5 – 23 September 2003

#### 1 Title

These are the United Nations Sanctions (Terrorism Suppression and Afghanistan Measures) Regulations 2004.

#### 2 [Spent]

#### 3 Interpretation

(1) In these Regulations –

“Al-Qaida entity” –

- (a) Means the Al-Qaida organisation; and
- (b) Includes an entity (other than the Al-Qaida organisation) designated, by or under 1 or more resolutions of the Security Council relating to Afghanistan, as being an entity associated with Usama bin Laden and against whom a sanction imposed by those resolutions and provided for in regulations 6 or 8 is to be imposed;

“entity” means a person, group, trust, partnership, or fund, or an unincorporated association or organisation;

“funds” –

- (a) Means assets of every kind, whether tangible or intangible, moveable or immovable, however acquired; and
- (b) Includes legal documents or instruments (for example, bank credits, travellers’ cheques, bank cheques, money orders, shares, securities, bonds, drafts, and letters of credit) in any form (for example, in electronic or digital form) evidencing title to, or an interest in, assets of any kind;

“property” –

- (a) Means real or personal property of any description, whether situated in Niue or elsewhere and whether tangible or intangible; and
- (b) Includes an interest in any real or personal property of that kind;

“specified entity” has the meaning given to it in regulation 4;

“Taliban” means the Afghan faction known as the Taliban, which also calls itself the Islamic Emirate of Afghanistan;

“Taliban entity” means an entity (other than an Al-Qaida entity or the Taliban or Usama bin Laden) designated, by or under one or more Resolutions of the Security Council relating to Afghanistan, as an entity against whom a sanction imposed by those resolutions and provided for in regulation 6 or regulation 8 is to be imposed.



(2) A reference in these regulations to the transfer of property that is a security includes a reference to a transfer of the security by way of loan, mortgage, pledge, or bailment, whether in respect of a legal or an equitable interest.

(3) The Minister of External Affairs may publish, in any manner that he or she thinks fit (for example, by notice in the *Gazette*, or publication on the Internet, or both) –

- (a) A list of the names, and of any other known identifying details, of entities that are specified entities to whom some or all of the provisions of these Regulations apply;
- (b) Any additions to, or deletions from, the list referred to in paragraph (a).

#### **4 Application**

These Regulations apply in respect of the entities referred to in column 1 of the table in the Schedule to the extent specified in column 2 of that table opposite the references to those entities, and references in these Regulations to a “specified entity” must be read accordingly.

#### **5 Collecting or providing funds for specified entities**

(1) No person may, directly or indirectly, wilfully and without lawful justification or reasonable excuse, provide or collect funds intending that they be used, or knowing that they are to be used, in full or in part, by a specified entity.

(2) In a prosecution for an offence against these regulations of contravening paragraph (1), it is not necessary for the prosecutor to prove that the funds collected or provided were actually used, in full or in part, by specified entity.

#### **6 Dealing with property of, or derived or generated from property of, specified entities**

(1) No person may, without lawful justification or reasonable excuse, deal with any property knowing that the property is –

- (a) Property owned or controlled, whether directly or indirectly, by a specified entity; or
- (b) Property derived or generated from any property of the kind specified in subparagraph (a).

(2) Paragraph (1) does not apply if the Minister of Finance has, under regulation 9, authorised that dealing with the property (for example, to enable a third party with a valid interest in the property, or in the maintenance or disposition of it, to obtain relief).

(3) In this regulation “deal with”, in relation to any property –

- (a) Means to use or deal with the property, in any way and by any means, for example, to acquire possession of, or a legal or an equitable interest in, transfer, pay for, sell, assign, or dispose of (including by way of gift) the property; and
- (b) Includes allowing the property to be used or dealt with, or facilitating the use of it or dealing with it.

#### **7 Property suspected to be owned or controlled by specified entities to be reported**

A person in possession or control of property that the person suspects on reasonable grounds is property that is or may be owned or controlled by, or on behalf of, a specified entity must, as soon as practicable after forming that suspicion, report it to a constable.

## **8 Making property, or financial or other related services, available to specified entities**

(1) No person may make available, or cause to be made available, directly or indirectly, without lawful justification or reasonable excuse, any property, or any financial or business or professional services, either to, or for the benefit of, a specified entity, knowing that the entity is a specified entity.

(2) An example of a person making property available with a lawful justification, for the purposes of paragraph (1) is where the property the person made available is items of food, clothing, or medicine, that are necessities of life.

(3) Paragraph (1) does not apply if the Minister of Finance has, under regulation 9, authorised that making available of the property or services (for example, to enable a third party with a valid interest in the property, or in the maintenance or disposition of it, to obtain relief).

(4) In this regulation “make available”, in relation to any property or services, means to make the property or services available in any way and by any means (for example, to send, transfer, deliver, or provide the property or services).

## **9 Minister of Finance may authorise activities or transactions**

(1) The Minister of Finance may, by notice in writing, permit any 1 or more activities or transactions, or classes of activities or transactions, that would otherwise be prohibited by regulations 6 or 8.

(2) Any authorisation of that kind –

(a) May be subject to terms or conditions; and

(b) May be amended, or revoked, or revoked and replaced.

(3) If a person has obtained an authorisation of that kind, another person involved in carrying out the activity or transaction or class or classes of activities or transactions to which the authorisation relates is not subject to regulations 6 or 8.

(4) Paragraph (3) does not apply if –

(a) The authorisation is subject to terms or conditions imposed under paragraph (2) (a), and

(b) Those terms or conditions are not satisfied.

## **10 Recruiting members of specified groups**

No person may recruit another person as a member of a group or organisation, knowing that the group or organisation is a specified entity.

## **11 Participating in specified groups**

No person may participate in a group or organisation, knowing that the group or organisation is a specified entity.

## **12 Protection of persons**

(1) A person has immunity from civil, criminal, or disciplinary proceedings to the extent provided in paragraphs (2) and (3) if the person –

(a) Acts in purported compliance with the requirements of any of regulations 6 and 8; or

(b) Reports a suspicion to a constable under regulation 7 (1); or

(c) Discloses information in connection with a report of that kind.

(2) No civil, criminal, or disciplinary proceedings lie against a person to whom paragraph (1) applies –

- (a) In respect of the acts of the person in good faith and with reasonable care in purported compliance with the requirements of any of regulations 6 and 8; or
- (b) In respect of the report or disclosure, or the manner of the report or disclosure, by that person, of the information referred to in paragraph (1)(b) and (c); or
- (c) For any consequences that follow from the report or disclosure of that information.

(3) Paragraph (2)(b) and (c) does not apply if the information was reported or disclosed in bad faith, or without reasonable care having been taken in determining, before the report or disclosure, that an entity is a specified entity.

### 13 Offences

Every person commits an offence against these Regulations, and is liable accordingly under section 3 of the United Nations Act 1946, who acts in contravention of or fails to comply in any respect with any of the provisions of these Regulations.

### 14 Minister's consent required for prosecutions

(1) No prosecution for an offence against these Regulations may be instituted in any court except with the consent of the Minister of External Affairs.

(2) A person alleged to have committed an offence against these Regulations may be arrested, or a warrant for the person's arrest may be issued and executed, and the person may be remanded in custody or on bail, even though the Minister's consent under paragraph (1) has not been obtained.

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#### SCHEDULE (Regulation 4(1))

##### Specified Entities

Entity	Provisions that apply to the entity
Every Al-Qaida entity	Every provision of these Regulations
The Taliban	Every provision of these Regulations
Every Taliban Entity	Every provision of these Regulations
Usama bin Laden	Every provision of these Regulations, except regulations 10 and 11.

## VISITING FORCES

### VISITING FORCES (COMMONWEALTH DESERTERS AND ABSENTEES) ORDER 1969

- 1 Title**  
This is the Visiting Forces (Commonwealth Deserters and Absentees) Order 1969.
- 2 Deserters and absentees from Commonwealth forces**  
Section 5 of the Visiting Forces Act 1939 shall apply to all naval, military, and air forces of Australia, Canada, Malaysia, Singapore and the United Kingdom.

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### VISITING FORCES ORDER 1966

- 1** This is the Visiting Forces Order 1966.
- 2** (1) Each of the following countries is hereby declared to be part of the Commonwealth for the purposes of the Visiting Forces Act 1939 –
- |           |              |                     |
|-----------|--------------|---------------------|
| Australia | Malawi       | Tanzania            |
| Canada    | Malaysia     | Trinidad and Tobago |
| Cyprus    | Malta        | Uganda              |
| Gambia    | Nigeria      | The United Kingdom  |
| Ghana     | Pakistan     | Zambia              |
| India     | Sierra Leone |                     |
| Jamaica   | Singapore    |                     |
| Kenya     | Sri Lanka    |                     |
- (2) Each of the following countries is hereby declared to be part of the Commonwealth for the purposes of the Visiting Forces Act 1939 as if it were a member of the Commonwealth –
- The Republic of Ireland
  - Samoa

## VISITING FORCES (PENAL ARRANGEMENTS) ORDER 1963

- 1 This is the Visiting Forces (Penal Arrangements) Order 1963.
  - 2 Members of a visiting force, if sentenced by a service court of that part of the Commonwealth to which the force belongs to penal servitude, imprisonment, or detention, may, under the authority of the Minister of Defence given at the request of the officer commanding the visiting force, and, in the case of a person who is to be detained in a prison, with the concurrence of the Minister of Justice, be temporarily detained in custody in prisons or detention barracks in Niue, and, if so sentenced to imprisonment, may, under the like authority and with the like concurrence, be imprisoned during the whole or any part of the term of their sentences in prisons in Niue.
  - 3 The provisions of any enactment, regulations, rules or orders, so far as they relate to or are applied in relation to the reception of prisoners from and their return to the service authorities, their treatment while so imprisoned, the circumstances under which they are to be released, and the manner in which they are to be dealt with in the event of their unsoundness of mind while in such custody or while so imprisoned, shall apply in relation to the members of any visiting force sentenced as aforesaid in like manner as they apply to members of the New Zealand forces of a like nature to the visiting forces sentenced by a service court, subject to the modification that for any reference in any such enactment, regulations, rules, or orders to any service authority of the part of the Commonwealth to which the visiting force belongs, and subject to such other modifications as may be necessary.
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## VISITING FORCES (RELATIVE RANKS) REGULATIONS 1971

1971 – 1 November 1971

### 1 Title

These are the Visiting Forces (Relative Ranks) Regulations 1971.

2 For the purposes of section 6 of the Visiting Forces Act 1939, the relative ranks of members of the home forces and of the naval, military, and air forces of the Commonwealth of Australia and the United Kingdom respectively shall be those specified in the Schedule.

### SCHEDULE TABLE OF RELATIVE RANKS Ranks in the Home Forces

Royal New Zealand Navy	New Zealand Army	Royal New Zealand Air Force
1		
2		
3 Vice-Admiral	Lieutenant-General	Air Marshal
4 Rear-Admiral	Major-General	Air Vice-Marshal
5 Commodore	Brigadier	Air Commodore
6 Captain	Colonel	Group Captain
Superintendent	Matron-in-Chief	Group Officer
7 Commander	Lieutenant-Colonel	Wing Commander
Chief Officer	Principal Matron	Wing Officer
8 Lieutenant-Commander	Major	Squadron Leader
First Officer	Matron	Squadron Officer
9 Lieutenant	Captain	Flight Lieutenant
Second Officer	Charge Sister	Flight Officer
10 Sub-Lieutenant	Lieutenant	Flying Officer
Third Officer	Sister	Section Officer
11 Ensign	Second Lieutenant	Pilot Officer
Fourth Officer	Staff Nurse	Assistant Section Officer
Midshipman (but junior to all ranks in clause 11 of this Schedule except Acting Pilot Officer)		Acting Pilot Officer (but junior to all ranks in clause 11 of this Schedule except Midshipman)
12 Warrant Officer	Warrant Officer, Class I	Warrant Officer
Warrant Officer (Wren)		Master Aircrew
13	Warrant Officer, Class II	
14 Chief Petty Officer		Staff Sergeant      Flight Sergeant
Chief Wren		Flight Sergeant Aircrew
15 Petty Officer	Sergeant	Sergeant
Petty Officer Wren		Sergent Aircrew
16 Leading Rank	Bombardier	Corporal
Leading Wren	Corporal	
(but junior to Army and Air Force ranks)		
17	Lance-bombardier	
	Lance-corporal	
18 Able Rank	Gunner	Leading Aircraftman
Wren	Trooper	Aircraftman

Ordinary Rank	Sapper	Aircraftwoman
Signalman	Cadet Aircrew	
Private		
Driver		
Craftsman		
19 Artificer Apprentice	Regular Force Cadet	Aircraft Apprentice
Junior Rank		Airman Cadet

## Relative Ranks in Forces Raised in the United Kingdom

Royal Navy	Army and Royal Marines	Royal Air Force
1 Admiral of the Fleet	Field-Marshal	Marshal of the Royal Air Force
2 Admiral	General	Air Chief Marshal
3 Vice-Admiral	Lieutenant-General	Air Marshal
4 Rear-Admiral	Major-General	Air Vice-Marshal
5 Commodore	Brigadier	Air Commodore
6 Captain	Colonel	Group Captain
7 Commander	Lieutenant-Colonel	Wing Commander
8 Lieutenant-Commander	Major	Squadron Leader
9 Lieutenant	Captain	Flight Lieutenant
10 Sub-Lieutenant	Lieutenant	Flying Officer
Acting Sub-Lieutenant (but junior to Army and Air Force ranks)		
11 Midshipman/Naval Cadet (but junior to all ranks in clause 11 of this Schedule except Acting Pilot Officer)	Second Lieutenant Major, Queen's Gurkha Officer; Captain, Queen's Gurkha Officer; Lieutenant, Queen's Gurkha Officer; (but junior to Air Force ranks)	Pilot Officer Acting Pilot Officer (but junior to all ranks in except clause 11 of this Schedule except Midshipman)
12 Warrant Officer	Warrant Officer, Class I Regimental Sergeant-Major Royal Marines	Warrant Officer Master Pilot Master Navigator Master Signaller Master Engineer Master Air Electronics Operator Master Air Quartermaster
13	Warrant Officer, Class II Quartermaster Sergeant, Royal Marines	
14 Chief Petty Officer (ranks with Quartermaster Staff Sergeant, Royal Marines, after 9 years' service as Chief Petty Officer)	Staff Corporal Sergeant	Flight Sergeant Chief Technician
15 Petty Officer	Corporal-of-horse Sergeant	Sergeant
16 Leading Rating (but junior to Army and Air Force ranks)	Corporal Bombardier	Corporal



17		Lance-corporal	
		Lance-bombardier	
18	Able Rating	Marine	Junior Technicians
	Ordinary Rating	Trooper	Senior Aircraftman
		Gunner	Senior Aircraftwoman
		Sapper	Leading Aircraftman
		Signalman	Leading Aircraftwoman
		Driver	Aircraftman
		Guardsman	Aircraftwoman
		Private	
		Ranger	
		Fusilier	
		Rifleman	
		Craftsman	
19			

Relative Ranks in Forces Raised in the Commonwealth of Australia

Royal Australian Navy	Australian Military Forces	Royal Australian Air Force
1 Admiral of the Fleet	Field-Marshal	Marshal of the Royal Australian Air Force
2 Admiral	General	Air Chief Marshal
3 Vice-Admiral	Lieutenant-General	Air Marshal
4 Rear-Admiral	Major-General	Air Vice-Marshal
5 Commodore	Brigadier	Air Commodore
6 Captain	Colonel	Group Captain
Superintendent		Group Officer
7 Commander	Lieutenant-Colonel	Wing Commander
Chief Officer		Wing Officer
Matron		
8 Lieutenant-Commander	Major	Squadron Leader
Chief Inspector (naval Police)		Squadron Officer
First Officer		
Superintending Sister		
9 Lieutenant	Captain	Flight Lieutenant
Inspector (Naval Police)		Flight Officer
Second Officer		
Senior Sister		
10 Sub-Lieutenant	Lieutenant	Flying Officer
Sub-Inspector (Naval Police)		Section Officer
Third Officer		
Sister		
Acting Sub-Lieutenant (but junior to Army and Air Force ranks)		
11 Probationary Third Officer	Second Lieutenant	Pilot Officer
Sister on Probation		
Midshipman/Cadet Midshipman (but junior to all ranks in clause 11 of this Schedule except Acting Pilot Officer)		
12 Warrant Officer	Warrant Officer, Class I	Warrant Officer
Warrant Officer Wran		
13	Warrant Officer, Class II	

14	Chief Petty Officer Chief Wran Sergeant 1st Class (Naval Police) Sergeant 2nd Class (Naval Police)	Staff Sergeant	Flight Sergeant
15	Petty Officer Petty Officer Wran Constable (Naval Police)	Sergeant	Sergeant
16	Leading Seaman Leading Wran (but junior to Army and Air Force ranks)_	Corporal Bombardier	Corporal
17		Lance-corporal Lance-bombardier	
18	Able Seaman Wran Ordinary Seaman Recruit Private	Gunner Trooper Sapper Signalman Aircraftman (recruit- Craftsman	Leading Aircraftsman Leading Aircraftwoman Aircraftsman Aircraftwoman
19	RAN Apprentice Recruit Seaman Junior Recruit	Officer Cadet, WRAAC  Aircraft Apprentice Aircraftwoman (Recruit)	Air Cadet Cadet Aircrew Trainee Signallers

\*Ranks in the New Zealand, United Kingdom and Australian women's forces are shown in the Schedule only where they differ from those in the corresponding male forces. Ranks in the United Kingdom Women's Royal Naval Service are not shown because the personnel concerned are not subject to the Naval Discipline Act.

NOTE – Officer Cadets: An officer cadet in the New Zealand Army and in the Royal New Zealand Air Force is an appointment, not a rank. New Zealand Army and Royal New Zealand Air Force personnel are normally attested as other ranks and retain that rank during the cadet appointment. Officer cadets are not appointed in the New Zealand Naval Forces.

## **WILDLIFE**

### **WILDLIFE PROTECTED SPECIES NOTICE 1991**

1991/9 – 19 November 1991

NOTICE IS HEREBY GIVEN that Cabinet acting under section 3(1) of the Wildlife Act 1972, has declared the species named in the Schedule to be a partly protected species throughout Niue, except for the period commencing on 1 December and ending on 31 December in each year.

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#### **SCHEDULE**

Pigeon (Lupe)

Flying Fox (Peka)

