

NIUE

LEGISLATION SUPPLEMENT

2016-2019

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EDITORIAL NOTE

This volume supplements the Niue legislation collections that have been compiled in the Victoria University of Wellington Law Faculty since 1990. It follows on from the *Niue Legislation Supplement 2013-2016*.

PART I reproduces in chronological order, Acts 334-349 which were passed between 14 June 2016 and 31 December 2019.

PART II reproduces Subsidiary Legislation made between 7 July 2016 and 31 December 2019.

PART I

ACTS

VILLAGE COUNCILS ACT 2016

2016/334 – 15 June 2016

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An Act to provide for the establishment, membership, functions, and operation of village councils

- Title**
This Act is the Village Councils Act 2016.
- Commencement**
This Act comes into force on the day after the date on which this Act becomes law in accordance with Article 34 of the Constitution.

PART 1
PRELIMINARY MATTERS

3 Interpretation

In this Act, unless the context otherwise requires —

- “Assembly member”, in respect of a village, means the member of the Niue Assembly representing the village;
- “assets” means property of any kind, whether tangible or intangible;
- “Chief Electoral Officer” means the Chief Electoral Officer appointed under section 3 of the Niue Assembly Act 1966;
- “constituency electoral roll” means the constituency electoral roll referred to in section 13 of the Niue Assembly Act 1966;
- “constituent notice”, in relation to a village council, means the notice or notices published under section 4;
- “council area”, in relation to a village council, means the area in and for which the council is established;
- “election” means an election of one or more village council members;
- “Director” means the head of the department responsible for administering this Act;
- “Director-General” means the head of the Ministry responsible for administering this Act;
- “financial year” means the period of 12 months commencing on 1 July in any one year and ending on 30 June the following year;
- “resident” in respect of a village, means a person whose name appears on the constituency electoral roll for the village;
- “Secretary” means the person appointed as Secretary of a village council under section 32;
- “village” means a village constituency established by section 5 of the Niue Assembly Act 1966;
- “village council” or “council” means a village council established by or under this Act.

PART 2
ESTABLISHMENT OF VILLAGE COUNCILS

4 Establishment and constitution of village councils

- (1) Cabinet may, by notice in the *Gazette* —
 - (a) establish a council in and for the village described in the notice;
 - (b) provide for the manner in which the council is to be constituted;
 - (c) provide for the boundaries of the council area in accordance with the Niue Assembly Act 1966;
 - (d) provide for the manner of election to the council;
 - (e) if there are less than three members of the council, provide for the meetings and procedure of the council.
- (2) A village council must consist of—
 - (a) not more than five members; and
 - (b) unless otherwise specified in the constituent notice, not less than three members.
- (3) A village council is a body corporate as described in section 26 of the Interpretation Act 2004.

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(4) After consultation with the village council concerned, Cabinet may, by notice published in the *Gazette* —

- (a) vary the boundaries of the council area in accordance with any change made in the boundaries of a constituency under the Niue Assembly Act 1966;
- (b) change the name of the council;
- (c) vary the constitution of the council;
- (d) vary any matter referred to in subsection (1)(d) or (e).

5 Electoral rolls and electors

(1) The electoral rolls to be used for village council elections are those required by section 13 of the Niue Assembly Act 1966.

(2) The provisions relating to the compulsory registration of electors in section 14 of the Niue Assembly Act 1966 apply in the same manner to village council elections.

(3) Before a village council election, the constituency electoral roll for that village must be closed on a date fixed by the Chief Electoral Officer.

(4) The Chief Electoral Officer must give public notice of the date fixed for the closing of the roll at least 10 clear days before that date.

(5) Except as otherwise provided in this Act, all other provisions relating to electors and electoral rolls in the Niue Assembly Act 1966 apply, with any necessary modifications, in respect of village council elections.

6 Elections of village council

(1) All village council elections must be conducted by secret ballot.

(2) Elections for individual councils must be held on the dates specified by Cabinet by notice in the *Gazette*.

(3) Except as otherwise provided in this Act and the constituent notice,—

- (a) the method of and the procedure to be followed at an election is the same as prescribed in the Niue Assembly Act 1966; and
- (b) in the conduct and supervision of any village council election, the Chief Electoral Officer must have due regard to the relevant provisions in that Act.

(4) Section 35(3) of the Niue Assembly Act 1966 does not apply to village council elections.

7 Where 5 candidates or less

If the number of candidates nominated for election to a village council is five or less, the Chief Electoral Officer must, by notice in the *Gazette*, declare those candidates to be elected as village council members on the date specified in the notice.

8 Qualifications of electors

A person is entitled to be an elector at a village council election if the person is enrolled on the constituency electoral roll for the village to which the election relates.

9 Qualifications of person nominating

(1) A person is entitled to nominate a candidate for election to a village council if—

- (a) the person is enrolled on the constituency electoral roll for the village to which the election relates; and
- (b) the person is not—
 - (i) an officer or employee of the council; or

(ii) an undischarged bankrupt.

(2) No elector may nominate more than one candidate.

10 Qualification of candidates

(1) A person is entitled to be nominated as a candidate for election to a village council if—

(a) the person is enrolled on a constituency electoral roll; and

(b) the person is not a member of the Niue Assembly; and

(c) the person is not a candidate for election to, or a member of, another village council; and

(d) the person —

(i) is not an officer or employee of the council;

(iii) is not an undischarged bankrupt; or

(iv) has not been convicted of any offence involving the misappropriation of funds or fraud, being an offence that carried a maximum penalty of 12 months or more imprisonment.

(2) A person is entitled to be nominated as a candidate for election to a village council irrespective of whether the person is enrolled on the constituency electoral roll for that village.

11 Term of office

(1) The term of office of village council members, is 3 calendar years from and including the day on which the previous election was completed.

(2) A village councillor can be re-elected for 2 or more 3 year terms.

(3) A member takes office when he or she has taken the oath under section 16.

(4) Subsection (1) is subject to this Act and anything to the contrary in the constituent notice.

12 When office becomes vacant

The office of a village council member becomes vacant if the member—

(a) refuses to take the oath under section 16; or

(b) resigns by notice in writing to the Director; or .

(c) is absent, without leave of the council, for 3 consecutive meetings of the council; or .

(d) is convicted of any offence punishable by imprisonment for a term of 12 months or more; or

(e) is incapable, because of any mental or physical infirmity, of performing his or her duties as a village council member; or

(f) dies; or

(g) is otherwise removed from office under section 13.

13 Removal or suspension from office

(1) The Cabinet may, on the recommendation of the Director, remove or suspend a village council member from office if—

(a) the village council concerned has notified the Director of its concerns regarding the village council member; and

(b) the Cabinet is satisfied on reasonable grounds that the member—

(i) has abused his or her powers; or

(ii) is incapable of exercising his or her powers justly; or

Village Councils

(iii) is not, for any other reason, a fit and proper person to continue in office;
and

(c) the member has been given a reasonable opportunity to answer any allegations made against him or her.

(2) The Director must not recommend the removal or suspension of a member until the Director has conducted, to his or her satisfaction, appropriate enquiry and consultation with the village and village council concerned.

(3) A removal or suspension takes effect on the date that the Cabinet notifies its decision to the village council,

(4) The member or village council concerned may appeal to the court against the decision of the Cabinet.

14 Casual vacancies

(1) If a casual vacancy occurs in the office of a village council member more than 6 months before the expiry date, the vacancy must be filled by election in accordance with section 6.

(2) If a casual vacancy in the office of a village council member occurs within 6 months before the expiry date, the Director-General may, after consultation with the council, appoint a suitably qualified person to hold the vacant office.

(3) A village council member elected or appointed under this section holds office for the balance of the term of office of the member being replaced.

(4) In this section, expiry date, means the date on which a village council member's term of office expires under section 11.

15 Chairperson and deputy chairperson

(1) Each village council must elect a chairperson and a deputy chairperson.

(2) An Assembly member representing a village constituency holds office in the village council for that constituency as an ex officio member and must not vote in any meeting of the council.

16 Village council members must take oath

(1) Unless re-elected, village council members vacate office immediately after the new village council members take their oath, which oath must be taken within 7 calendar days after the date of their election.

(2) A person elected as a village council member must not sit or vote in a meeting of the village council until he or she has taken the following oath before the Assembly member, Director, or Minister:

I, [full name], swear by Almighty God that I will justly and faithfully carry out my duties as a village council member of the [name of village] village council according to law.

So help me God.

(3) If a village council member is unable to take his or her oath orally because he or she is overseas or hospitalised, he or she may instead take the oath by making a signed declaration in a form provided by the Director that contains the full oath set out in subsection (2).

PART 3

FUNCTIONS AND POWERS OF VILLAGE COUNCILS

17 Functions and powers of village council

(1) The functions and powers of a village council are those specified in this Part, and are in addition to any functions and powers specified in this Act and any other enactment.

(2) The functions and powers of a village council that are specified in this Part are subject to any other law in force in Niue.

(3) Cabinet may direct a village council to perform a function specified in this Part, and it is the duty of the council to comply with that direction.

18 General functions of village council

The functions of a village council include—

- (a) the provision, construction, maintenance, and regulation of—
 - (i) bush roads other than public roads;
 - (ii) sea tracks and access to the sea and fishing grounds;
 - (iii) public parks, gardens, recreation areas, scenic sites and look-outs, and other public places, reserves, and land vested in the council or placed under its control either permanently or temporarily;
 - (iv) public bathing places, shelter sheds, and other places for public decency;
 - (v) buildings, places of public recreation, stalls, and stands on roads;
- (b) the provision of services relating to health, sanitation, prevention and suppression of infection diseases, and disposal of the dead, including—
 - (i) services for the purposes of establishing and maintaining village cleanliness;
 - (ii) the prevention of pollution of water sources and land resources;
- (c) the provision of services for the prevention and abatement of nuisances, including:
 - (i) imposition of fire bans and any other similar threats to persons or property;
 - (ii) the prevention and control of noise pollution;
- (d) the establishment, operation, and regulation of markets and commercial enterprises, including—
 - (i) village council markets and commodities sold in those markets;
 - (ii) the supply of planting materials;
- (e) the maintenance of the peace and security of the village residents in close co-operation with the Police;
- (f) any other function specified in this Act or any other enactment.

19 Community facilities and activities

A function of a village council is to establish or encourage the establishment of facilities it considers will benefit the residents of the village, including—

- (a) the establishment, operation, and maintenance of public halls, libraries, and community, cultural, or sports facilities;
- (b) the provision of community education schemes;
- (c) the provision of funding to associations for the promotion of handcrafts, recreation and sports, tourism, or the welfare of residents.

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20 Planning

(1) A function of a village council is to establish and maintain plans for the following —

- (a) schemes or development schemes for any part or all of the council area;
- (b) adherence to safety at sea measures;
- (c) responses to natural disasters;
- (d) the sustainable use of coastal, reef, and sea foods.

(2) For the purpose of subsection (1)(c), any plans relating to natural disasters must—

- (a) identify assistance that residents are likely to require following natural disaster warnings;
- (b) make provision for ensuring the safety of residents;
- (c) make provision for safe houses to accommodate residents that are required to evacuate;
- (d) identify means of assistance for residents to evacuate to safe houses;
- (e) provide for the clearing and cleaning of debris and the preparation of roads for public access.

21 Powers of village council

(1) A village council may, in the performance of its functions or duties under this Act —

- (a) organise, finance, engage in, or assist any business or enterprise;
- (b) take any action it considers desirable to improve—
 - (i) the standards of housing; or
 - (ii) the standards of agricultural, pastoral, forestry, horticultural, or other methods;
- (c) carry out any works for the benefit of the council area or of its residents; or
- (d) borrow money.

(2) A village council must not borrow money under subsection (1)(d) without Cabinet approval.

(3) A village council may do anything it considers necessary or desirable for the performance of its functions or duties under this Act, including anything that is ancillary or incidental to the performance of those functions or duties.

(4) For the purposes of subsection (1)(b) and without limiting its generality, a village council may—

- (a) acquire by lease, or otherwise (but not including compulsory acquisitions) land or buildings;
- (b) develop or improve land;
- (c) construct buildings;
- (d) co-operate with the Government or other recognised authority or body in the provision of credit facilities;
- (e) dispose of land or buildings.

(5) A village council may—

- (a) provide assistance with any matter affecting the residents of the village; and
- (b) make recommendations to the Government regarding matters affecting the village.

22 Exercise of power not invalid or unlawful in certain circumstances

(1) If the Director gives his or her prior consent, the exercise by a village council of a power conferred by section 21 is not invalid or unlawful merely because—

- (a) it takes place outside the council area or is related to matters outside the council area; or
- (b) it is for the benefit of only some of the persons in the council area or it is for the benefit of those persons jointly other persons.

(2) The Director's consent must relate to exercise of the power in the manner described in subsection (1)(a) or (b).

23 Bylaws

(1) A village council may, with the approval of Cabinet, make bylaws for the performance of any of its functions.

(2) A bylaw must not be inconsistent with this Act, any regulations made under this Act, and any other enactment,

(3) A bylaw comes into force—

- (a) when it is approved by the Cabinet; or
- (b) on any later date specified in the bylaw.

(4) A village council must publish its bylaws—

- (a) as soon as possible after they have been approved by Cabinet; and
- (b) in a manner that the council considers will best bring notice of the bylaws to the attention of the general public.

(5) Money payable to a village council pursuant to a bylaw is a debt due to the council.

(6) A fine imposed for an offence against a bylaw of a village council is payable to the council.

(7) A bylaw may exempt in whole or in part any person or class of person from the payment of a fee or fine imposed under this Part.

24 Fees for services

A village council may, by bylaw or otherwise, and to the extent consistent with any regulations made under this Act, impose or charge fees for any services supplied or rendered, by or on behalf of the council.

25 Fees may be recovered as debt

Fees due to a village council under this Part may be recovered by the council as a debt.

PART 4

MEETINGS OF VILLAGE COUNCIL

26 First village council meeting

(1) The first meeting of a village council must be called by the Assembly member by notice in writing within 7 consecutive days after the village council members are elected.

(2) If the first meeting is not called within 7 consecutive days after the village council members are elected, the Director must call the first meeting within the next 5 days (after the seventh day after the election).

(3) A notice under subsection (1) must—

- (a) state the date of the first meeting which must be within 7 consecutive days of the notice; and
- (b) be given to each member at least 3 days before the date of the meeting; and
- (c) state the date, time, and place for the meeting.

Village Councils

27 Procedure at first village council meeting

- (1) At the first meeting of a village council,—
 - (a) the Assembly member, or if the Assembly member is unavailable, the Director, presides until the chairperson is elected; and
 - (b) each village council member must take his or her oath under section 16; and
 - (c) after the oaths are taken, the chairperson and deputy chairperson must be elected and take office immediately.
- (2) This section is subject to the constituent notice.

28 Standing orders

- (1) A village council must, with the prior approval of the Director, adopt standing orders for—
 - (a) the calling, regulation, and conduct of the meetings of the council; and
 - (b) custody of the common seal of the council; and
 - (c) custody or control of all assets of the council; and
 - (d) any other matters that are necessary or convenient for the purposes of this Act.
- (2) Standing orders must not be inconsistent with any provision of this Act.

29 Regularity of meetings of village council

- (1) A village council must meet at least once every 6 weeks.
- (2) The chairperson must call each meeting of the council by giving each member at least 7 days notice of the date, time, and place of the meeting.
- (3) The chairperson must call a meeting of the council if requested to do so by at least 2 members.
- (4) This section is subject to the constituent notice.

30 Meetings of village council

- (1) This section applies to any meeting of a village council.
- (2) The meeting must be presided over by—
 - (a) the chairperson; or
 - (b) if the chairperson is absent, the deputy chairperson; or
 - (c) in any other case, a member chosen by the members present.
- (3) One half of the total membership of the council, or 3 members, whichever is the greater number, constitutes a quorum for the meeting.
- (4) All questions and matters before the council for decision must be determined by a majority of the votes of the members present.
- (5) The member presiding has a deliberative vote, and if the votes are equal, a casting vote.
- (6) Members of the public may attend the meeting unless the council determines otherwise.
- (7) This section is subject to the constituent notice.

31 Meetings with residents

- (1) A village council must meet with the residents of the village at least once every 6 weeks.
- (2) If the Chairperson does not call a meeting in accordance with subsection (1), a meeting may be called by —
 - (a) any 2 members of the village council;
 - (b) any 5 residents duly enrolled in the electoral roll of that village; or

(c) the Assembly member representing that village constituency.

(3) The Director may direct the chairperson to call a meeting of the residents of the village at a place and time determined by the Director.

(4) A chairperson must—

(a) call the meeting in accordance with any direction under subsection (2); and

(b) preside, or arrange for another village council member to preside, over the meeting.

32 Administrative matters

(1) A village council must ensure that—

(a) documents to be considered at a council meeting are distributed to members before the meeting; and

(b) minutes are made of each council meeting and confirmed by each member present at the original meeting; and

(c) all minutes of council meetings are kept in a form in which they may be quickly retrieved for reference purposes; and

(d) meeting minutes, correspondence, financial records, and other documents of the council are kept in safe custody; and

(e) there is an up-to-date assets register of all assets of the council.

(2) The council may appoint a person, who may be a member, to be Secretary to the council.

(3) The functions of the Secretary are those set out in subsection (1).

(4) A person appointed as Secretary—

(a) continues in office until the council ends the appointment or the person resigns from that position or dies; and

(b) must, on ceasing to hold office as Secretary, ensure that any documents and records of the council in his or her custody are returned to the council.

33 Village council members must disclose conflicting interests

(1) If a village council member has a direct or indirect interest (other than as a resident of the village) in any transaction or matter by the village council —.

(a) the member must, as soon as possible after becoming aware of that interest, disclose the interest at a meeting of the council; and

(b) the council must ensure that the member's disclosure is recorded in the minutes of the meeting.

(2) The member who has made the disclosure—

(a) must not take part in a deliberation or decision of the council relating to the agreement; but

(b) may be counted, if present, for the purpose of forming a quorum of the council for the deliberation or decision.

(3) Nothing done by a council is invalid solely because at the time it was done a member had not disclosed an interest in accordance with this section.

PART 5

VILLAGE COUNCIL MONEY AND ASSETS

34 Administrative costs

Village councils may receive such amounts to cover administrative and development expenses as Cabinet determines from time to time from funds made available for that purpose by the Niue Assembly.

Village Councils

35 Ownership and control of assets

- (1) All assets of a village council must be in the name of the council and be registered on the assets register.
- (2) Until the council otherwise disposes of an asset, the asset—
 - (a) remains the property of the council; and
 - (b) must be in the control of the council at all times.
- (3) The Director may at any time inspect the assets register of a council.

36 Establishment of village council accounts

- (1) Every village council must establish a bank account to hold the funds of the council.
- (2) The bank account must be in the name of the council.
- (3) A council must ensure that all money that the council receives is paid into the bank account as soon as reasonably possible.
- (4) No money may be withdrawn from that account except with the council's approval.

37 Discretionary grants from public revenue

In addition to any other money that may be paid or advanced to or on behalf of a village council, Cabinet may grant to a council, on any terms as it thinks fit, any money appropriated by Act for the purpose.

38 Village councils may accept offers by Cabinet to advance money

A village council may accept an offer by Cabinet to advance money for the purposes of the council on any terms that are agreed between the council and Cabinet.

39 Reserve fund

A village council must, unless otherwise authorised by the Director,—

- (a) set aside during each financial year not less than one tenth of its recurrent revenue for that year as a reserve; and
- (b) build up and maintain at all times a reserve fund equal to 50% of its average annual revenue over the 5 financial years immediately preceding; and
- (c) once it has built up the reserve fund to the level prescribed by paragraph (b), comply with paragraph (a) only to the extent necessary to maintain the fund at the level prescribed by paragraph (b).

40 Power to invest

A village council may invest in the reserve fund (referred to in section 39)—

- (a) on deposit in a bank; or
- (b) in any other manner approved by Cabinet.

41 Duty to keep proper accounts

- (1) A village council must keep proper accounts in accordance with an accounting practice approved by the Director.
- (2) In particular, a council must keep records of—
 - (a) its assets and liabilities; and
 - (b) the money it receives and spends.
- (3) A council must retain all financial records for a period of no less than 7 years.

42 Write-off of irrecoverable amounts

A village council may, subject to any directions or conditions specified by the Director, write off—

- (a) losses or deficiencies from its funds:
- (b) irrecoverable amounts of revenue:
- (c) irrecoverable debts or overpayments:
- (d) the value of lost, deficient, condemned, unserviceable, or obsolete stores.

43 Village council accounts must be audited

(1) The accounts of a village council must be audited by an auditor approved by Treasury.

(2) A person may be appointed to be the council auditor for more than one council.

44 Village council must provide annual report

(1) A village council must, within the 2 months after the end of a financial year, provide the Director with a report of its proceedings, operations, and transactions during that financial year, including the audited financial statement for that year.

(2) A village council must present its annual report to the village residents at a meeting before it is provided to the Director.

(3) Cabinet may withhold payments to a council until the annual report has been submitted to Cabinet to its satisfaction.

45 Council may employ or engage persons to provide services

A village council may employ or engage any person to provide services to the council on any terms and conditions determined by the council.

PART 6

MISCELLANEOUS

46 Remuneration of village council members

The remuneration of village council members must be determined by Cabinet and paid out of funds made available for that purpose by the Niue Assembly.

47 Village council members not personally liable for certain actions

A village council member is not personally liable for an act or omission by the member in respect of a power or function conferred by this Act if done or omitted to be done in good faith.

48 Suspension of village council

(1) The Director must investigate any matter in respect of which the Director has reasonable cause to suspect that—

- (a) the affairs of the council are so negligently, inefficiently, or badly conducted that the council is not acting for the welfare of the council area or of the village residents; or
- (b) the council is not properly carrying out its duties under this Act or any other law in force in Niue.

(2) Following the investigation, the Director may direct the council to resolve the matter or report the matter to Cabinet.

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(3) On receiving a report under subsection (2), Cabinet may, by written notice to the council concerned, suspend the operation of the council.

(4) If notice is given under subsection (3), Cabinet must appoint a manager to temporarily manage the affairs of the council.

(5) A notice under subsection (3) remains in force until Cabinet directs that the suspension be removed.

49 Abolition of village council

(1) During any period of suspension under section 48, the Director may, with the concurrence of the Director-General, recommend to Cabinet that the village council be abolished.

(2) Cabinet may, on receiving a recommendation under subsection (1) or on its own motion, by notice in the *Gazette*, abolish a village council.

(3) The powers and functions of the council cease on the date that the notice under subsection (2) is published or on any later date specified in the notice.

(4) In a notice under subsection (2) or by a subsequent notice, Cabinet must appoint a person to be the liquidator for the village council.

(5) A person appointed as liquidator must—

- (a) wind up the affairs of the council in accordance with any directions given by the Director; and
- (b) dispose of the council's assets in any manner that Cabinet determines; and
- (c) provide a report to Cabinet at the conclusion of the up and disposal of the assets of a council.

50 Village council may be exempted from taxes

Cabinet may, on receipt of written application from a village council, exempt the council from any tax, levy, duty or fee.

51 Regulations

Cabinet may make such regulations as it thinks fit for the purposes of this Act and in particular for providing for—

- (a) fees and allowances for village council members; and
- (b) the regulation of the imposition • and collection of taxes and fees by village councils: and
- (c) the accounts and records to be kept by village councils; and
- (d) the forms for annual and financial reports and any other reports; and
- (e) the imposition of penalties not exceeding a fine of 100 penalty units (\$1,000) or imprisonment for one month, or both, for breaches of the regulations.

52 Offences

(1) A person commits an offence who—

- (a) consents to be nominated for election as a village council member, knowing that he or she is not qualified to be a candidate; or
- (b) nominates for election as a village council member, a person he or she knows is not qualified to be a candidate.

(2) A chairperson of a village council who fails to call a meeting of residents under section 31 when so required commits an offence.

(3) A person who has held the office of Secretary of a village council who fails to comply with 32(4)(b) commits an offence..

(4) Any person who fails to comply with a bylaw made by a village council under this Act commits an offence.

(5) Any person who obstructs or interferes with the lawful exercise, by a village council or an officer authorised by the council, of its powers or functions under this Act commits an offence.

(6) Any person who, whether intentionally or recklessly, misuses or abuses any funds for use by the village council or any council monies commits an offence and is liable on conviction to a fine not exceeding 100 penalty units.

(7) A village council member who does not return to the council any asset or other property belonging to the council that is held by the member at the end of his term or her term of office commits an offence.

(8) Any person who commits an offence against this section is liable on conviction to a fine not exceeding 100 penalty units.

53 Application of fines

All fines imposed for offences against this Act—

- (a) must be paid to the village council in respect of which the offence was committed; and
- (b) form part of the council's revenues.

54 Judicial notice

(1) All courts and persons acting judicially must take judicial notice of—

- (a) all bylaws made by a village council; and
- (b) any act, matter, or thing that is directed by or under this Act to be published in the *Gazette*, when so published.

(2) The common seals of all village councils must be judicially and officially noticed.

55 Purposes of village council deemed to be public purpose

The purposes of village councils and the purposes of a council are deemed to be a public purpose within the meaning of any law in force in Niue.

56 Village Councils Act 1967 repealed

The Village Councils Act 1967 is repealed

57 Transitional provisions

Despite the repeal of the Village Councils Act 1967, a village council established under that Act continues in existence under this Act as if it were a council established by this Act, and accordingly –

- (a) its assets and liabilities are deemed to be the assets and liabilities of a village council established under this Act; and
- (b) its members are deemed to have been appointed under this Act with terms of office terminating on the same date as they would have terminated had the Village Councils Act 1967 not been repealed; and
- (c) any bylaws made by a village council under the Village Councils Act 1967 and in force immediately before the commencement of this Act continue in force as if they were bylaws made under this Act by the village council deemed to be established by this Act.

APPROPRIATION (ANNUAL) ACT 2016

2016/335 – 17 August 2016

An Act to appropriate certain sums of money out of the Niue Assembly account to the services for the year ending 30th of June 2017 and to appropriate the supplies granted in that year.

1 Title

This is the Appropriation (Annual) Act 2016.

2 Commencement

(1) This Act shall relate to the financial year ending on the 30th day of June 2017 (hereinafter referred to as “the financial year”).

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

3 Grant and Appropriation of Expenditure

There may be issued and supplied from the Niue Assembly Account towards making good the supplies granted for the services of the financial year:

- (a) for Recurrent Operational Expenditure, Capital Projects and Investment and Development Projects a sum of which does not exceed \$24,078,000 in total; and
- (b) for development partner Investment and Development projects a sum which does not exceed \$9,085,000 in total

particulars of which are set out under the relevant headings in the Schedules hereto.

Schedule A

TABLE 1: 2016-17 BUDGET SUMMARY

(\$'000)	Voted 2014-15	Actual 2014-15	Voted 2015-16	Voted 2016-17
Total Niue Recurrent Revenues	-25,970	-25,031	-27,248	-24,078
Total Niue Recurrent Expenses	25,498	24,490	27,058	23,740
Total Niue Funded Capital	268	210	51	100
Niue Funded I&D	193	326	138	238
Total Appropriation	25,959	25,026	27,247	24,078
Niue Budget Surplus/Deficit	-11	-	-	-
Donor I&D Revenue	-11,650	0	-11,500	-9,085
Donor I&D Expenditure	11,650	0	11,500	-9,085
Total Revenue	37,620	25,031	28,248	33,163
Total Expenses	37,009	25,026	38,748	33,163
Surplus (-ve) / Deficit (+ve)	-11	-	-	-

Note: Numbers presented in tables within this document show revenues with a -ve number, and expenses with a +ve number.

Appropriation 2016

Schedule B

GOVERNMENT OF NIUE 2016-17 BUDGET RECURRENT EXPENDITURE BY MINISTRIES								
Entity	Department	2013-14 Voted	2013-14 Actual	2014-16 Voted	2014-15 Actual	2015-16 Voted	2015-16 Actual	2016-17 Estimate
CENTRAL AGENCIES	Premiers Department	2,338,000	2,138,064	2,314,000	2,204,928	2,298,000	2,307,487	2,223,000
	Crown Law	275,000	317,695	259,000	421,993	292,000	406,725	342,000
	Niue Public Service Commission and Secretariat	1,094,000	1,085,574	1,118,000	1,069,601	1,273,000	1,237,181	1,262,000
	Finance and Planning	5,303,000	1,475,450	1,370,000	2,084,715	1,456,000	1,797,206	1,483,000
	Project Management Coordination Unit	0	0	0	0	327,000	62,661	327,000
	Police	471,000	408,779	494,000	461,362	551,000	547,379	615,000
	Sub total: Central agencies	5,481,000	5,426,561	5,555,000	6,282,599	6,197,000	6,358,639	6,252,000
MINISTRY OF SOCIAL SERVICES	Education Department	2,218,000	2,181,512	2,463,000	2,419,611	2,485,000	2,649,964	2,616,000
	Health Department	2,003,000	2,021,504	1,940,000	2,003,540	2,138,000	1,927,604	2,183,000
	Justice Department (Inc Com Affairs)	2,742,000	3,042,473	3,624,000	3,422,089	3,684,000	3,635,773	3,859,000
	Taoga Niue	174,000	124,926	185,000	182,790	237,000	199,920	270,000
	Sub total: Ministry of Social Services	7,137,000	7,370,425	8,212,000	8,008,031	8,544,000	8,370,251	8,928,000
MINISTRY OF NATURAL RESOURCES	DAFF	858,000	765,159	819,000	795,126	952,000	747,320	963,000
	Environment Department	247,000	241,884	248,000	222,014	265,000	280,710	335,000
	Met Office	184,000	170,605	190,000	183,659	198,000	208,309	221,000
Sub total: Ministry of Natural Resources	2,289,000	2,181,659	2,257,000	2,200,799	2,415,000	2,236,339	2,519,000	
MINISTRY OF INFRASTRUCTURE	Utilities	718,000	773,778	2,789,000	2,773,215	2,841,000	2,832,921	3,529,000
	Transport	751,000	783,949	1,060,000	947,619	1,354,000	1,088,914	1,500,000
	Civil Aviation	311,000	402,542	331,000	328,150	263,000	217,990	0
	Telecom Niue	1,178,000	1,169,553	1,254,000	1,117,085	1,555,000	0	0
	Niue Power	2,108,000	1,944,297	2,019,000	0	0	0	0
	Sub total: Ministry of Infrastructure	5,074,000	5,071,109	7,453,000	5,158,019	6,013,000	4,139,824	2,455,000
	NIUE Tourism Authority	342,000	400,560	338,000	314,651	350,000	368,193	377,000
Sub total: Commercial and Trading	5,594,000	5,801,377	5,832,000	4,513,577	4,794,000	4,065,607	4,209,000	
TOTAL RECURRENT EXPENDITURE	24,532,000	24,352,120	27,809,000	25,846,665	29,323,000	24,558,763	28,740,000	

GOVERNMENT OF NIUE 2016-17 BUDGET RECURRENT REVENUE BY MINISTRIES								
Entity	Department	2013-14 Voted	2013-14 Actual	2014-16 Voted	2014-15 Actual	2015-16 Voted	2015-16 Actual	2016-17 Estimate
CENTRAL AGENCIES	Premiers Department	-2,000	-105,388	-2,000	-9,642	-2,000	-3,515	-3,000
	Crown Law	0	-855	0	-3,848	0	-283	-5,000
	Niue Public Service Commission and Secretariat	0	0	0	0	0	5	0
	Finance and Planning	-14,241,000	-14,400,134	-14,271,000	-14,044,576	-14,611,000	-15,059,349	-16,156,000
	Project Management Coordination Unit	0	0	0	1	-358,000	0	-358,000
	Police	-158,000	-203,590	-195,000	-172,735	-191,000	-141,767	-191,000
	Sub total: Central agencies	-14,401,000	-14,710,347	-14,468,000	-14,230,800	-15,162,000	-15,205,214	-16,713,000
MINISTRY OF SOCIAL SERVICES	Education Department	-4,000	-1,788	-4,000	-4,213	-4,000	-3,262	-5,000
	Health Department	-40,000	-15,523	-44,000	-28,088	-40,000	-35,043	-40,000
	Justice Department (Inc Com Affairs)	-98,000	-77,878	-83,000	-45,893	-80,000	-53,705	-60,000
	Taoga Niue	-3,000	-1,734	-3,000	-6,539	-6,000	-14,430	-6,000
	Sub total: Ministry of Social Services	-105,000	-96,923	-134,000	-84,734	-130,000	-107,340	-131,000
MINISTRY OF NATURAL RESOURCES	DAFF	-639,000	-908,432	-1,053,000	-1,308,100	-1,094,000	-1,113,646	-1,048,000
	Environment Department	-5,000	-2,020	-10,000	-3,882	-10,000	-4,177	-10,000
	Met Office	-1,000	-644	-1,000	-1,308	-2,000	-1,042	-2,000
Sub total: Ministry of Natural Resources	-645,000	-910,896	-1,064,000	-1,313,290	-1,106,000	-1,118,865	-1,061,000	
MINISTRY OF INFRASTRUCTURE	Utilities	-7,000	-8,545	-2,162,000	-1,773,307	-2,289,000	-1,805,999	-39,000
	Transport	-603,000	-480,072	-934,000	-759,541	-1,397,000	-672,054	-1,481,000
	Civil Aviation	-231,000	-364,472	-331,000	0	0	0	0
	Telecom Niue	-1,374,000	-1,202,539	-1,645,000	-1,252,387	-1,877,000	0	0
	Niue Power	-2,085,000	-2,373,105	-2,155,000	0	0	0	0
	Sub total: Ministry of Infrastructure	-4,298,000	-4,405,734	-7,227,000	-3,785,235	-5,563,000	-2,478,054	-1,520,000
	NIUE Tourism Authority	-34,000	-28,910	-40,000	-36,226	-48,000	-43,051	-48,000
Sub total: Commercial and Trading	-5,408,000	-5,858,454	-5,523,000	-5,866,856	-5,239,000	-5,067,856	-4,605,000	
TOTAL RECURRENT REVENUE	-24,992,000	-25,492,352	-28,456,000	-25,017,540	-27,248,000	-24,019,863	-24,078,000	

Niue Legislation Supplement 2016-2019

Schedule C

GOVERNMENT OF NIUE 2015-16 BUDGET

RECURRENT EXPENDITURE BY VOTE & NNSP PILLAR						
DEPARTMENTS	VOTE	NNSP Pillar	2013/14 Voted	2014/15 Voted	2015/16 Estimate	
TREASURY	Finance	1. Fin. Stability	\$848,000	\$981,000	\$935,000	
TREASURY	Taxation	1. Fin. Stability	\$0	\$0	\$0	
		1. Fin. Stability Total	\$848,000	\$981,000	\$935,000	
PREMIERS	Corporate Services	2. Governance	\$384,000	\$373,000	\$328,000	
PREMIERS	Cabinet Services	2. Governance	\$477,000	\$485,000	\$491,000	
PREMIERS	Legislature	2. Governance	\$719,000	\$725,000	\$744,000	
CROWN LAW	Crown Law Office	2. Governance	\$275,000	\$258,000	\$292,000	
PREMIERS	Niue High Commission	2. Governance	\$180,000	\$152,000	\$199,000	
PREMIERS	External Affairs	2. Governance	\$578,000	\$539,000	\$536,000	
NPSC and Secretariat	Corporate Services/HRMIS	2. Governance	\$804,000	\$775,000	\$885,000	
NPSC and Secretariat	Strategic Human Resource	2. Governance	\$62,000	\$72,000	\$70,000	
NPSC and Secretariat	Manpower Supplementation	2. Governance	\$97,000	\$105,000	\$105,000	
TREASURY	Customs (fly Customs/Taxation)	2. Governance	\$217,000	\$221,000	\$232,000	
CAFF	Quarantine	2. Governance	\$89,000	\$94,000	\$134,000	
JUSTICE	Administraton & Registry	2. Governance	\$210,000	\$216,000	\$188,000	
JUSTICE	Civil/Criminal Court	2. Governance	\$71,000	\$87,000	\$68,000	
JUSTICE	Land Court	2. Governance	\$81,000	\$103,000	\$99,000	
POLICE	Administration	2. Governance	\$440,000	\$481,000	\$470,000	
POLICE	Prison	2. Governance	\$31,000	\$33,000	\$33,000	
POLICE	Disaster Management (new)	2. Governance	\$0	\$0	\$48,000	
PMCU	Project Management Unit	2. Governance	\$0	\$0	\$327,000	
TREASURY	Statistics and Immigration	2. Governance	\$14,000	\$10,000	\$142,000	
		2. Governance Total	\$4,729,000	\$4,730,000	\$5,391,000	
TREASURY	Economic Development	3. Econ. Dev	\$224,000	\$258,000	\$147,000	
TRANSPORT	Civil Aviation	3. Econ. Dev	\$321,000	\$331,000	\$263,000	
TRANSPORT	Rescue Fire Services	3. Econ. Dev	\$0	\$0	\$188,000	
NPSC and Secretariat	Employment Relations	3. Econ. Dev	\$48,000	\$55,000	\$55,000	
CAFF	Administration	3. Econ. Dev	\$385,000	\$349,000	\$311,000	
CAFF	Fisheries	3. Econ. Dev	\$100,000	\$117,000	\$151,000	
CAFF	Crop Research & Animal Health	3. Econ. Dev	\$185,000	\$115,000	\$176,000	
CAFF	Crop Extension Services	3. Econ. Dev	\$64,000	\$77,000	\$99,000	
JUSTICE	Land Management	3. Econ. Dev	\$338,000	\$309,000	\$335,000	
UTILITIES	Administration	3. Econ. Dev	\$188,000	\$190,000	\$182,000	
UTILITIES	Building & Engineering	3. Econ. Dev	\$68,000	\$92,000	\$121,000	
TRANSPORT	Maritime	3. Econ. Dev	\$0	\$38,000	\$28,000	
UTILITIES	Water Supply	3. Econ. Dev	\$482,000	\$488,000	\$514,000	
TOURISM	Tourism Authority	3. Econ. Dev	\$342,000	\$338,000	\$360,000	
		3. Econ. Dev. Total	\$2,703,000	\$2,757,000	\$2,911,000	
NPSC and Secretariat	Human Resource Development	4. Social	\$84,000	\$112,000	\$158,000	
COMMUNITY AFFAIRS	Administration	4. Social	\$157,000	\$387,000	\$387,000	
COMMUNITY AFFAIRS	Community Devel. & Social Welfare	4. Social	\$1,887,000	\$2,542,000	\$2,607,000	
EDUCATION	National Library	4. Social	\$127,000	\$78,000	\$75,000	
EDUCATION	Administration	4. Social	\$886,000	\$668,000	\$668,000	
EDUCATION	Niue Primary School	4. Social	\$493,000	\$749,000	\$770,000	
EDUCATION	Niue High School	4. Social	\$932,000	\$968,000	\$971,000	
HEALTH	Administration	4. Social	\$527,000	\$475,000	\$545,000	
HEALTH	Medical	4. Social	\$688,000	\$579,000	\$691,000	
HEALTH	Nursing	4. Social	\$363,000	\$361,000	\$401,000	
HEALTH	Public Health	4. Social	\$271,000	\$381,000	\$320,000	
HEALTH	Dental	4. Social	\$154,000	\$164,000	\$181,000	
		4. Social Total	\$6,349,000	\$7,444,000	\$7,775,000	
CAFF	Forestry	5. Environ.	\$55,000	\$67,000	\$81,000	
ENVIRONMENT	Administration	5. Environ.	\$247,000	\$248,000	\$263,000	
MET SERVICE	Administration	5. Environ.	\$184,000	\$190,000	\$198,000	
		5. Environ. Total	\$486,000	\$505,000	\$542,000	
TAGGA NIUE	Administration	6. Taoga Niue	\$174,000	\$185,000	\$237,000	
		6. Taoga Niue Total	\$174,000	\$185,000	\$237,000	
BULK FUEL	Bulk Fuel	3. Econ. Dev.	\$5,212,000	\$4,994,000	\$4,794,000	
UTILITIES	Energy Administration	2. Governance	\$138,000	\$160,000	\$169,000	
UTILITIES	Production	3. Econ. Dev.	\$1,844,000	\$1,468,000	\$1,488,000	
UTILITIES	Retiulation	3. Econ. Dev.	\$321,000	\$382,000	\$387,000	
TRANSPORT	Transport Administration	3. Econ. Dev	\$0	\$0	\$142,000	
TRANSPORT	Outside Services	3. Econ. Dev.	\$482,000	\$466,000	\$470,000	
TRANSPORT	Heavy Plant	3. Econ. Dev	\$289,000	\$264,000	\$282,000	
TELECOM	Administration	3. Econ. Dev.	\$641,000	\$687,000	\$930,000	
TELECOM	Technical (Lines)	3. Econ. Dev.	\$129,000	\$129,000	\$166,000	
TELECOM	Technical (Electronics)	3. Econ. Dev.	\$185,000	\$193,000	\$253,000	
TELECOM	Information Systems Office	3. Econ. Dev.	\$97,000	\$119,000	\$98,000	
TELECOM	Post Office	3. Econ. Dev	\$128,000	\$125,000	\$108,000	
		Trading Operations	\$9,244,000	\$8,996,000	\$9,267,000	
		TOTAL RECURRENT EXPENDITURE	\$24,533,000	\$25,498,000	\$27,058,000	

Appropriation 2016

Schedule C

GOVERNMENT OF NIUE 2015-16 BUDGET

RECURRENT REVENUE BY VOTE & NNSP PILLAR					
DEPARTMENTS	VOTE	NNSP Pillar	2013/14 Voted	2014/15 Voted	2015/16 Estimate
TREASURY	Finance	1. Fin. Stability	-\$8,755,000	-\$8,350,000	-\$8,550,000
TREASURY	Taxation	1. Fin. Stability	-\$4,174,000	-\$4,607,000	-\$4,607,000
1. Fin. Stability Total			-\$12,929,000	-\$12,957,000	-\$13,157,000
PREMIERS	Corporate Services	2. Governance	\$0	\$0	\$0
PREMIERS	Cabinet Services	2. Governance	\$0	\$0	\$0
PREMIERS	Legislature	2. Governance	\$0	\$0	\$0
CROWN LAW	Crown Law Office	2. Governance	\$0	\$0	\$0
PREMIERS	Niue High Commission	2. Governance	-\$2,000	-\$2,000	-\$2,000
PREMIERS	External Affairs	2. Governance	\$0	\$0	\$0
NPSC and Secretariat	Corporate Services/HRMIS	2. Governance	\$0	\$0	\$0
NPSC and Secretariat	Strategic Human Resource	2. Governance	\$0	\$0	\$0
NPSC and Secretariat	Manpower Supplementation	2. Governance	\$0	\$0	\$0
TREASURY	Customs (fly Customs/Taxation)	2. Governance	-\$1,282,000	-\$1,282,000	-\$1,422,000
DAFF	Quarantine	2. Governance	-\$12,000	-\$27,000	-\$27,000
JUSTICE	Administration & Registry	2. Governance	-\$15,000	-\$15,000	-\$15,000
JUSTICE	Civil/Criminal Court	2. Governance	-\$10,000	-\$10,000	-\$10,000
JUSTICE	Land Court	2. Governance	-\$10,000	-\$15,000	-\$12,000
POLICE	Administration	2. Governance	-\$158,000	-\$195,000	-\$191,000
POLICE	Prison	2. Governance	\$0	\$0	\$0
PMCU	Project Management Unit	2. Governance	\$0	\$0	-\$358,000
TREASURY	Statistics and Immigration	2. Governance	-\$30,000	-\$32,000	-\$32,000
2. Governance Total			-\$1,519,000	-\$1,578,000	-\$2,089,000
TREASURY	Economic Development	3. Econ. Dev.	\$0	\$0	\$0
TRANSPORT	Vicivil Aviation	3. Econ. Dev.	-\$231,000	-\$331,000	-\$371,000
TRANSPORT	Fire and Rescue	3. Econ. Dev.	\$0	\$0	-\$6,000
DAFF	Administration	3. Econ. Dev.	-\$5,000	-\$3,000	-\$3,000
DAFF	Fisheries	3. Econ. Dev.	-\$595,000	-\$979,000	-\$1,020,000
DAFF	Crop Research & Animal Health	3. Econ. Dev.	-\$3,000	-\$6,000	-\$6,000
DAFF	Crop Extension Services	3. Econ. Dev.	-\$21,000	-\$31,000	-\$31,000
JUSTICE	Land Management	3. Econ. Dev.	-\$23,000	-\$43,000	-\$43,000
UTILITIES	Administration	3. Econ. Dev.	\$0	\$0	\$0
UTILITIES	Building & Engineering	3. Econ. Dev.	-\$2,000	-\$2,000	-\$2,000
TRANSPORT	Maritime	3. Econ. Dev.	\$0	\$0	-\$200,000
UTILITIES	Water Supply	3. Econ. Dev.	-\$5,000	-\$5,000	-\$7,000
TOURISM	Tourism Authority	3. Econ. Dev.	-\$34,000	-\$40,000	-\$48,000
3. Econ. Dev. Total			-\$919,000	-\$1,440,000	-\$1,736,000
NPSC and Secretariat	NTDU/Human Resources	4. Social	\$0	\$0	\$0
COMMUNITY AFFAIRS	Administration	4. Social	\$0	\$0	\$0
COMMUNITY AFFAIRS	Community Devel. & Social Welfar	4. Social	\$0	\$0	\$0
EDUCATION	National Library	4. Social	-\$1,000	-\$1,000	-\$1,000
EDUCATION	Administration	4. Social	-\$1,000	-\$1,000	-\$1,000
EDUCATION	Niue Primary School	4. Social	-\$1,000	-\$1,000	-\$1,000
EDUCATION	Niue High School	4. Social	-\$1,000	-\$1,000	-\$1,000
HEALTH	Administration	4. Social	-\$40,000	-\$44,000	-\$40,000
HEALTH	Medical	4. Social	\$0	\$0	\$0
HEALTH	Nursing	4. Social	\$0	\$0	\$0
HEALTH	Public Health	4. Social	\$0	\$0	\$0
HEALTH	Dental	4. Social	\$0	\$0	\$0
4. Social Total			-\$44,000	-\$48,000	-\$44,000
DAFF	Forestry	5. Environ.	-\$3,000	-\$7,000	-\$7,000
ENVIRONMENT	Administration	5. Environ.	-\$5,000	-\$10,000	-\$10,000
MET SERVICE	Administration	5. Environ.	-\$1,000	-\$1,000	-\$2,000
5. Environ. Total			-\$9,000	-\$18,000	-\$19,000
TAOGA NIUE	Administration	6. Taoga Niue	-\$3,000	-\$3,000	-\$6,000
6. Taoga Niue Total			-\$3,000	-\$3,000	-\$6,000
BULK FUEL	Bulk Fuel	3. Econ. Dev.	-\$5,449,000	-\$5,323,000	-\$5,239,000
UTILITIES	Energy Administration	2. Governance	\$0	\$0	\$0
UTILITIES	Production	3. Econ. Dev.	-\$1,997,000	-\$2,105,000	-\$2,205,000
UTILITIES	Reticulation	3. Econ. Dev.	-\$86,000	-\$50,000	-\$75,000
TRANSPORT	Outside Services	3. Econ. Dev.	-\$603,000	-\$603,000	-\$611,000
TRANSPORT	Heavy Plant	3. Econ. Dev.	\$0	\$0	-\$10,000
TELECOM	Administration	3. Econ. Dev.	-\$1,200,000	-\$1,466,000	-\$1,555,000
TELECOM	Technical (Lines)	3. Econ. Dev.	\$0	\$0	\$0
TELECOM	Technical (Electronics)	3. Econ. Dev.	\$0	\$0	\$0
TELECOM	Information Systems Office	3. Econ. Dev.	-\$30,000	-\$48,000	-\$92,000
TELECOM	Post Office	3. Econ. Dev.	-\$144,000	-\$129,000	-\$129,000
Trading Operations			-\$9,509,000	-\$9,926,000	-\$10,217,000
TOTAL RECURRENT REVENUE			-\$24,932,000	-\$25,970,000	-\$27,248,000
RECURRENT OPERATIONAL SURPLUS/(DEFICIT)			\$399,000	\$472,000	\$190,000
GON RECURRENT CAPITAL EXPENDITURE			-\$100,000	-\$268,000	-\$51,000
GON RECURRENT INVESTMENT & DEVELOPMENT PROJECTS			-\$298,000	-\$193,000	-\$138,000
GON BUDGET BALANCE (-ve = Deficit, +ve = Surplus)			\$1,000	\$11,000	\$1,000

CIVIL LIST ACT 2016

2016/336 – 19 November 2016

1	Title	9	Advance of remuneration
2	Commencement	10	Advance of overseas travel allowance
3	Interpretation	11	Allowances to be treated as taxable income
4	Remuneration and allowances	12	Members assisting a Minister
5	Appropriation	13	Effectiveness of remuneration and allowances
6	Payment of remuneration	14	Repeal
7	Period for which the Premier's and Ministers' remuneration and allowances are payable		
8	Period for which Members' remuneration and allowances are payable		

SCHEDULE

An Act to prescribe under article 25(2) of the Constitution the remuneration and other entitlements of the Premier, Ministers, Members of the Niue Assembly and the Speaker

1 Title

This is the Civil List Act 2016.

2 Commencement

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

3 Interpretation

In this Act, unless the context otherwise requires —

"Acting Premier" means a Minister discharging the functions of Premier pursuant to article 9(1) or (2) of the Constitution;

"Member of the Niue Assembly," or "Member" means a person elected as a Member of the Niue Assembly under article 16 of the Constitution;

"Member assisting a Minister" means a Member of the Niue Assembly who has been appointed by the Premier to assist a Minister in the undertaking of the duties of the Minister;

"Minister" means a Member of the Niue Assembly who has been appointed as such under Article 5 of the Constitution, but does not include a temporary Minister;

"Premier" means a Member of the Niue Assembly elected under Article 4 of the Constitution but does not include an Acting Premier;

"Speaker" means the Speaker of the Niue Assembly elected under article 20 of the Constitution but does not include a Member of the Niue Assembly performing the functions of the Speaker under that article;

"temporary Minister" means a Member of the Niue Assembly appointed as a temporary Minister under article 8 of the Constitution.

4 Remuneration and allowances

There is payable to the Premier, Ministers, Members of the Niue Assembly and the Speaker the remuneration and allowances specified in the Schedule.

5 Appropriation

A remuneration or allowance payable under this Act is to be paid out of the Niue Government Account without further appropriation.

6 Payment of remuneration

(1) A remuneration specified in Part 1 of the Schedule is payable by equal fortnightly instalments in arrears with a proportionate payment for any fraction of a fortnight served.

(2) The rate of remuneration in Part 1 of the Schedule is deemed to be effective from 1 July 2016.

7 Period for which the Premier's and Ministers' remuneration and allowances are payable

The remuneration and allowances of the Premier and each Minister of Cabinet shall commence on the day on which he/she is appointed under article 4 and 5 of the Niue Constitution and end on the day that he/she vacates his/her office under article 3 or article 7 of the Niue Constitution.

8 Period for which Members' remuneration and allowances are payable

(1) The remuneration and allowance of each Member shall commence on the day the Chief Electoral Officer publicly declares him/her to be elected and shall cease on the day a new Member has been declared by the Chief Electoral Officer or unless his/her seat becomes vacant by death or otherwise as the case may be.

(2) Where a Member is returned unopposed his/her period of remuneration shall recommence on the date that the Chief Electoral Officer declares him/her to be elected and shall cease on the date a new Member has been declared by the Chief Electoral Officer or unless his/her seat becomes vacant by death or otherwise as the case may be.

9 Advance of remuneration

If a person who is entitled to be paid a remuneration under Part 1 of the Schedule is due to be absent from Niue he or she may be paid that remuneration in advance –

- (a) If the person is due to be absent from Niue on official business connected with his or her position in the Assembly, for such part of the absence as the person is due to spend on that official business; or
- (b) In any other case, for the period of his or her absence from Niue up to a maximum period of 4 weeks from his or her departure from Niue.

10 Advance of overseas travel allowance

(1) An overseas travel allowance payable under Part 2 of the Schedule may be paid in advance of the travel.

(2) If on the return of a person to whom an overseas travel allowance has been paid in advance it is found that the allowance was paid in respect of too few days an adjustment in respect of the additional days is to be paid to the person.

(3) If on the return of a person to whom an overseas travel allowance has been paid in advance it is found that the allowance was paid in respect of too many days, the exceeded allowance paid in respect of the additional days is to be refunded by the person to whom it was paid within 7 days of his or her return to Niue.

(4) Any overseas travel allowance not repaid by a person under subsection (3) may be deducted from any other money payable to that person under this Act.

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11 Allowances to be treated as taxable income

An allowance referred to in Part 2 of the Schedule except for the Clothing Allowance, Overseas Travel Allowance, Premier's Entertainment and Residence Allowance, is to be treated as taxable income for income tax purposes.

12 Members assisting a Minister

(1) The Premier may, as the Premier sees fit, at any time appoint a Member to assist a Minister.

(2) No more than three Members may at any time hold appointment under subsection (1).

(3) Every appointment of a Member under subsection (1) is effective from the date of notification of the appointment, and ends on the date of notification of termination, by the Premier in writing to the Financial Secretary.

(4) Public notice shall be given of every appointment and termination of appointment under this section.

13 Effectiveness of Remuneration and Allowances

Notwithstanding section 7, the remuneration and allowances in clause 3 shall be deemed to be effective from 1 July 2016

14 Repeal

The Civil List Act 2009 and subsequent amendments are repealed.

SCHEDULE

PART 1 – REMUNERATION

Office	Rate of Remuneration - Annual
Premier	\$78,582.00 - \$80,055.00
Minister	\$53,406.00 - \$56,009.00
Member Assisting Minister	\$41,162.00 - \$44,315.00
Member	\$27,409.00 - \$31,179.00
Speaker	\$32,175.00 - \$35,731.00

PART 2 – ALLOWANCES

Type of allowance	Amount of allowance
Premier's Entertainment and Residence allowance payable to the Premier annually, to defray costs incurred by the Premier in relation to official duties, representation at official functions and to defray the cost of maintaining the Premier's residence.	\$10,000 per annum

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<p>Ministerial allowance payable to a Minister annually , to defray the costs incurred in relation to official duties and representation at official functions</p>	<p>\$8,000 per annum</p>
<p>Member Assisting a Minister Allowance payable annually to a Member who is assisting the Minister with the duties of the Minister, to defray the cost incurred in relation to official duties and representation at official functions</p>	<p>\$6,000 per annum</p>
<p>Speaker's Allowance payable to the Speaker to defray costs incurred in relation to official duties and representation at functions</p>	<p>\$6,000 per annum</p>
<p>Member of the Niue Assembly Allowance payable to a Member to defray the costs incurred in relation to official duties and representation at official functions</p>	<p>\$4,000 per annum</p>
<p>Acting Premier's Allowance payable to a Minister when acting as Premier</p>	<p>\$100 per day in addition to remuneration as a Minister</p>
<p>Temporary Minister's Allowance payable to a Member when acting as a Minister</p>	<p>\$70 a day in addition to remuneration as Member</p>
<p>Clothing Allowance</p>	<p>Premier \$800 payable every 3 years Minister \$750 payable every 3 years Speaker \$500 payable every 3 years Member \$500 payable every 3 years</p> <p>This allowance is payable on the person first becoming a member of the Assembly and is then payable not sooner than 3 years after the payment of any previous clothing allowance of any amount.</p>

Civil List

<p>Overseas Travel Allowance payable to the Premier, a Minister, a Member, and the Speaker in connection with the person's official duties - To cover accommodation, meals and incidental expenses necessarily incurred in carrying out such duties.</p>	<p>Premier \$500 daily allowance Minister \$350 daily allowance Speaker \$200 daily allowance Member \$200 daily allowance</p> <p>The allowance may differ in respect of the office in the Assembly held by the person travelling and by the country or countries to be visited by the person. The allowance payable is to be adjusted by an equal amount to any allowance that is to be paid by a person other than the Government of Niue to cover accommodation, meals and incidental expenses</p>
<p>Overseas Entertainment Allowance payable to the Premier, a Minister, a Member assisting a Minister, Members of the Niue Assembly and the Speaker in connection with the person's official duties.</p>	<p>Premier \$450 per trip Minister \$300 per trip Member Assisting the Minister \$300 per trip Member \$250 per trip Speaker \$250 per trip</p> <p>The allowance may differ in respect of the office in the Assembly held by the person travelling and by the country or countries to be visited by the person</p>
<p>Select Committee Member's Allowance payable to a Select Committee Member who attends Select Committee meetings</p>	<p>For meetings outside of normal working hours \$70 per day. For meetings between 8.30am-12.30pm during normal working hours \$50 per day. For meetings during normal working hours between 8.30am and 4.00pm and beyond, \$100 per meeting</p>

BIOSECURITY ACT 2016.

2016/337 – 24 December 2016

1	Title	31	Notifiable pests and diseases
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3	Interpretation		
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	CABINET POWERS OF PROHIBITION AND REGULATION		
5	Cabinet may prohibit importation of pest or disease	35	Niue Biosecurity Authority established
6	Cabinet may prohibit or regulate importation of LMO	36	Functions of Biosecurity Authority
7	Cabinet may prohibit importation of items	37	Director
8	Cabinet may regulate importation of items	38	Chief biosecurity officer
9	Cabinet may prohibit exportation of items	39	Senior biosecurity officer
10	Cabinet may regulate pests, diseases, and LMOs already present in Niue	40	Biosecurity officers
	PART 3	41	Duty to co-ordinate functions and report certain matters
	BIOSECURITY CONTROLS RELATING TO ARRIVALS, DEPARTURES, AND TRANSITS.		
	<i>Arrivals</i>		
11	Incoming passengers and crew		<i>Powers of biosecurity officers</i>
12	Incoming vessels and aircraft	42	Power to inspect
13	Quarantine of vessels and aircraft	43	Permits authorise certain inspections
14	Management of quarantined vessel or aircraft	44	Power to seize
15	Obligations of captains while vessel or aircraft in Niue	45	Power to lock and seal stores
16	Incoming items	46	Taking of samples
	<i>Departures</i>	47	Testing and treatment of restricted items
17	Export of items	48	Quarantine of items and other things
18	Clearance required for certain items	49	Reconsignment
19	Departing passengers and crew	50	Destruction of things
20	Search of departing vessels and aircraft	51	Post-mortem examination of animal
	<i>Transits</i>	52	Powers in relation to individuals
21	Individuals and items in transit		
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	INTERNAL BIOSECURITY CONTROLS		
22	Pest and disease surveys	53	Minister may designate certain areas as biosecurity holding areas
23	Internal control of prohibited pests and diseases, LMOs, etc	54	Minister may designate quarantine area
24	Detention, testing, and treatment of animals, plants, animal products, and plant products	55	Minister may designate land as quarantine station
25	Declaration of controlled infested area	56	Management of quarantine areas and quarantine stations
26	Management of controlled infested area		
27	Revocation of declaration of controlled infested area		<i>Miscellaneous administrative provisions</i>
28	Declaration of pest-free area	57	Seal
29	Management of pest-free area	58	Biosecurity register
30	Destruction of wild animals	59	Biosecurity officer identity card
		60	Facilities for biosecurity officers to be provided at airport, seaport, and post office
		61	Owners or persons in charge of vessel, aircraft, land, buildings, or premises must provide biosecurity officers with certain protections
		62	Consultants and outsourcing
		63	Compliance agreements
		64	Biosecurity approved premises

PART 6	
OFFENCES, PENALTIES, AND PROCEEDINGS	
<i>Offences</i>	
65	Offences against biosecurity officers
66	Fraudulent use of official documents
67	Biosecurity officer offences
<i>Proceedings</i>	
68	Evidence
69	Forfeiture of things used to commit offence
70	Offences committed by body corporate
<i>Infringement offences</i>	
71	Infringement offences
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72	Warrants
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87	Regulations
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89	Regulations may incorporate material by reference
90	Access to material incorporated by reference
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93	Repeals and savings
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<i>Consequential amendments</i>	
95	References in other enactments

An Act to state the law relating to the importing, exporting, and internal control of animals, plants, and other things for the purposes of preventing and managing biosecurity risks to Niue

1 Title

This Act is the Biosecurity Act 2016.

2 Commencement

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

PART 1
PRELIMINARY MATTERS

3 Interpretation

In this Act, unless the context otherwise requires —
“animal” —

- (a) means any member of the animal kingdom (other than a human being), whether alive or dead; and
- (b) includes —
 - (i) the egg, embryo, ova, semen, or other organic animal tissue . from which another animal could be produced; and
 - (ii) the hide, skin, hair, feathers, shell, horns, hoof, viscera, or any other part or of the body of an animal;

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“animal product” —

- (a) means any thing derived from an animal whether or not treated or sterilised to the stage where it is rendered free from any viable form of any organism capable of causing disease; and
- (b) includes —
 - (i) meat, fat, milk, whey, cream, butter, cheese, eggs, and any other foodstuffs derived from an animal; and
 - (ii) the dung, urine, faeces, saliva, bone, or blood of an animal, or any article or substance derived from the dung, urine, faeces, saliva, bone, or blood of an animal; and
 - (iii) the secretions of an animal; and
 - (iv) any product or biological preparation derived from tissue or secretions of an animal;

“area of Niue” means any area of —

- (a) Crown or Niuean land in Niue, including any buildings, premises, or private homes on that land; and
- (b) the territorial sea or contiguous zone of Niue (as defined in the Maritime Zones Act 2013);

“baggage” —

- (a) means any item that accompanies an individual on a vessel or an aircraft; and
- (b) includes the clothing and any thing attached or otherwise connected to the body or clothing of the individual;

“Biosecurity Authority”, or “Authority”, means the Niue Biosecurity Authority established by section 35;

“biosecurity clearance agent” means a resident of Niue appointed in accordance with section 80 to carry out, on behalf of a person, one or more of the person's duties under this Act;

“biosecurity holding area” means any territorial waters or land designated under section 53 as a biosecurity holding area;

“biosecurity officer” means the Director, the chief biosecurity officer, the senior biosecurity officer, and those individuals appointed or designated as biosecurity officers under section 40;

“biosecurity risk” means the risk of harm or adverse to animals, plants, human beings, the environment, or economic activities;

“biosecurity risk assessment” —

- (a) means an evaluation by a suitably qualified scientific expert of the biosecurity risk posed by the thing to which the assessment relates; and
- (b) includes an assessment of whether the thing should be regulated under this Act (for example, by prohibiting or restricting its importation into Niue);

“captain” —

- (a) in relation to a vessel, means the person for the time being having command or charge, or apparent command or charge, of the vessel, other than a pilot for the vessel;
- (b) in relation to an aircraft, means the person for the time being having command or charge, or apparent command or charge, of the aircraft;

“chief biosecurity officer” means the individual appointed under section 38 as the chief biosecurity officer;

“clearance”, in respect of an individual, a vessel, an aircraft, an item, or any other thing, means the permit or permits that must be obtained, and the requirements and processes that must be complied with, under this Act before the individual, vessel,

- aircraft, item, or other thing may enter, remain in, or depart from Niue, as the case may be;
- “contaminated”, in relation to a thing or place, means a living pest or disease is or has been present in, on, or at the thing or place country of origin includes a country where an item is opened and repacked or repackaged before it arrives in Niue;
- “Department” means —
- (a) the Department of Agriculture, Forestry and Fisheries; or
 - (b) if another government department is responsible for the administration of this Act, that department;
- “Director” means —
- (a) the Director of the Department of Agriculture, Forestry and Fisheries; or
 - (b) if another government department is responsible for the administration of this Act, the Director of that government department;
- “disease”, in relation to an animal or plant —
- (a) means any unhealthy condition in the animal or plant that is known or suspected to be caused by an organism; and
 - (b) includes —
 - (i) a disease transmissible from an animal or plant to a human being; and
 - (ii) a disease capable of harming the environment; and
 - (iii) exposure to a causal agent of a disease;
- “diseased” —
- (a) in relation to an animal or plant, means that the animal or plant is or has been affected by a disease;
 - (b) in relation to an animal product or plant product, means that the product is derived from an animal or plant that is or has been affected by a disease;
- “environment” means —
- (a) all natural and physical elements; and
 - (b) includes —
 - (i) land, marine areas, freshwater supplies, and air; and
 - (ii) ecosystems and their constituent parts, including people and communities; and
 - (iii) the natural and physical qualities and characteristics of an area that contributes to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes (commonly known as amenity values);
- “export specification”, in relation to a restricted item, means the requirements under section 18 that must be satisfied before the item may be exported;
- “exporter”, in relation to an item, means the person who sends or causes the item to be sent from Niue, and includes a person who sends an item from Niue as baggage; and export has a corresponding meaning;
- “genetic material” means any material containing functional units of heredity, whether of plant, animal, microbial, or other origin;
- “host material” means packing material, containers, fittings, litter, manure, fodder, or any other thing that may, in the normal course of events, have contact with animals, plants, animal products, or plant products;
- “import specification”, in relation to a restricted item, means the requirements specified in regulations made under section 8 that must be satisfied before the item may be imported;

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“importer”, in relation to an item, means the person who brings or causes the item to be brought into Niue, and includes a person who brings an item into Niue as baggage; and import has a corresponding meaning

“infected”, in relation to a thing or place, means that the thing or place has been in direct or indirect contact with a diseased animal, animal product, plant, or plant product;

“infested”, in relation to a thing or place, means that a living pest or disease is present in, on, or at the thing or place;

“item” —

- (a) means human remains and any kind of moveable property; and
- (b) without limiting the ordinary meaning of moveable property, includes —
 - (i) animals, plants, animal products, and plant products; and
 - (ii) soil, sand, gravel, aggregate, and other industrial rocks and building stones; and
 - (iii) genetic material; and
 - (iv) host material; and
 - (v) rubbish;
- (c) includes a container of any description or kind in which human remains are encased or stored; and
- (d) includes a container of any description or kind in which moveable property is encased or stored; and
- (e) in relation to items arriving in Niue other than as baggage, includes a quantity or consignment of items, whether the same as each other or different, that arrive in or depart from Niue in the same vessel or aircraft and share one or more common characteristics (for example, the items are imported or exported by the same person, are to be received at their destination by the same person, or are packaged together);

“living modified organism or LMO” —

- (a) means a living organism that possesses a novel combination of genetic material obtained through the use of modern biotechnology techniques (being techniques, not used in traditional breeding and selection, that overcome natural physiological reproductive barriers or recombination barriers); and
- (b) includes agricultural crops (such as taro) that have been genetically modified for greater productivity or for resistance to pests or disease;

“Minister” means —

- (a) the Minister for Agriculture, Forestry and Fisheries; or
- (b) if another government department is responsible for the administration of this Act, the Minister responsible for that department;

“non-complying” —

- (a) in relation to an LMO, means an LMO —
 - (i) for which permission to import is subject to regulations made under section 6; and
 - (ii) that does not comply or fully comply with the requirements of those regulations; and
- (b) in relation to a restricted item, means a restricted item —
 - (i) for which permission to import is subject to regulations made under section 8 or for which permission to export is subject to clearance under section 18; and
 - (ii) that does not comply or fully comply with the requirements of those regulations or the clearance;

“organism” —

- (a) means any organism capable of transferring or replicating genetic material; and
- (b) includes —
 - (i) sterile organisms; and
 - (ii) viruses, viroids, plasmids, and bacteriophages; and
 - (iii) micro-organisms; and
 - (iv) subject to paragraph (c), a genetic structure that is capable of replicating itself (whether that structure comprises all or only part of an entity, and whether it comprises all or only part of the total genetic structure of the entity); and
 - (v) a reproductive cell or developmental stage of an organism; and
 - (vi) any particle that is a prion; but
- (c) does not include a human or a genetic structure derived from a human;

“owner”, in relation to a vessel or aircraft, means the owner or charterer of the vessel or aircraft;

“permit” means a permit, consent, certificate, or other authorisation that may be obtained or granted under this Act;

“pest” means any organism that causes disease or is detrimental to, or capable of harming or adversely affecting, one or more animals, plants, animal products, plant products, or human beings, or the environment;

“phytosanitary” certificate means a certificate relating to a plant or plant product that

-
- (a) is issued by the appropriate government authority of the country of origin; and
- (b) certifies that the plant or plant product is substantially free from plant pests and diseases and meets the plant health import requirements of the receiving country; and
- (c) is patterned after the model certificates issued by the Food and Agriculture Organization, the body responsible for the International Plant Protection Convention (commonly known as IPPC);

“plant” —

- (a) means all species, varieties, or types of vegetation, or parts of them;
- (b) includes —
 - (i) stems, branches, tubers, bulbs, cultures, corms; stocks, budwood, cuttings, layers, slips, suckers, roots, leaves, flowers, fruit, seeds, and spores; and
 - (ii) any other plant growth; and
- (c) includes any dead thing referred to in paragraph (a) or (b);

“plant product” —

- (a) means any product manufactured wholly or partly from one or more plants; and
- (b) includes timber (including round wood, sawn wood, wood chips, and dunnage, with or without bark);

“private home” means a building or part of a building that is occupied exclusively as the home or residence of a household;

“prohibited item” means, as the case may be —

- (a) an item the importation of which is prohibited by regulations made under section 7;
- (b) an item the exportation of which is prohibited by regulations made under section 9;

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“prohibited pest or disease” means a pest or disease the importation of which is prohibited by regulations made under section 5;

“quarantine area” means territorial waters or land designated under section 54 as a quarantine area;

“quarantine station” means land designated under section 55 as a quarantine station;

“receiving country” means the country that is the intended destination of an individual, item, or other thing;

“register” means the register kept by the Biosecurity Authority in accordance with section 58;

“restricted item” means, as the case may be —

(a) an item the importation of which is subject to regulations made under section 8; or

(b) an item the exportation of which is subject to clearance under section 18;

“rubbish” means organic and inorganic waste of any kind;

“sanitary certificate” means an international health certificate relating to an animal or animal product that —

(a) is issued by the country of origin of the animal or animal product; and

(b) certifies that the animal or animal product is substantially free from pests and diseases and in other respects meets the animal health import requirements of the receiving country; and

(c) complies with the relevant requirements of, as the case may be —

(i) the World Trade Organization Agreement on the Application of Sanitary and Phytosanitary Measures (commonly known as the SPS Agreement); or

(ii) any other relevant international standard; or

(iii) the country of origin;

“senior biosecurity officer” means the individual appointed under section 39 as the senior biosecurity officer;

“treatment” —

(a) means any procedure for the killing, removal, modification, or rendering infertile or non-viable of a pest or disease by way of cleansing, fumigation, inoculation, disinfection, decontamination, or otherwise; and

(b) includes sampling for 1 or more pests or diseases;

“vehicle” includes a bicycle (whether motorised or not) and any other wheeled conveyance;

“vessel” includes a ship, hovercraft, boat, ferry, raft, yacht, canoe, or pontoon that is used as a conveyance in or on water, whether or not it is self-propelled;

“warrant” means a warrant issued in accordance with section 72.

4 Act binds the Government

This Act binds the Government.

PART 2

CABINET POWERS OF PROHIBITION AND REGULATION

5 Cabinet may prohibit importation of pest or disease

(1) Cabinet may make regulations prohibiting the importation of a pest or disease, whether or not the pest or disease is already present in Niue.

(2) Before acting under subsection (1), Cabinet must consult the Biosecurity Authority, which must, as part of the consultation, provide Cabinet with a biosecurity risk assessment for the pest or disease.

(3) A person who imports or attempts to import a pest or disease prohibited by regulations made under subsection (1) commits an offence and is liable on conviction—

- (a) in the case of an individual, to a fine not exceeding 500 penalty units or a term of imprisonment not exceeding 15 months, or both;
- (b) in any other case, to a fine not exceeding 2 500 penalty units.

6 Cabinet may prohibit or regulate importation of LMO

(1) Cabinet may make regulations —

- (a) prohibiting the importation of an LMO; or
- (b) permitting the importation of an LMO subject to the conditions specified in the regulations.

(2) Subsection (1) applies whether or not the LMO is already present in Niue.

(3) Before acting under subsection (1), Cabinet shall consult the Biosecurity Authority, which shall, as part of the consultation, provide Cabinet with a biosecurity risk assessment for the LMO.

(4) A person who imports or attempts to import an LMO prohibited by regulations made under subsection (1)(a), or imports or attempts to import an LMO in breach of any conditions specified in regulations made under subsection (1)(b) commits an offence and is liable on conviction to —

- (a) in the case of an individual, a fine not exceeding 500 penalty units or a term of imprisonment not exceeding 15 months, or both;
- (b) in any other case, a fine not exceeding 2 500 penalty units.

7 Cabinet may prohibit importation of items

(1) Cabinet may make regulations prohibiting the importation of one or more items if Cabinet considers that their presence in Niue would pose an unacceptable biosecurity risk.

(2) The regulations may apply to items irrespective of country of origin or to items from one or more countries of origin specified in the regulations.

(3) Cabinet must review regulations made under this section at not more than 12-monthly intervals, the first interval beginning on the date on which the regulations come into force.

(4) Before acting under subsection (1), Cabinet must consult the Biosecurity Authority, which must, as part of the consultation, provide Cabinet with a biosecurity risk assessment for the item or items.

(5) A person who imports or attempts to import an item prohibited from being imported by regulations made under subsection (1) commits an offence and is liable on conviction to —

- (a) in the case of an individual, a fine not exceeding 500 penalty units or a term of imprisonment not exceeding 15 months, or both;
- (b) in any other case, a fine not exceeding 2 500 penalty points.

(6) A person who owns or possesses an item imported in breach of regulations made under subsection (1) commits an offence and is liable on conviction to —

- (a) in the case of an individual, a fine not exceeding 500 penalty units or a term of imprisonment not exceeding 15 months, or both;
- (b) in any other case, a fine not exceeding 2 500 penalty units.

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(7) However, subsections (5) and (6) do not apply if the item was imported or was in the process of being imported (for example the item was on board a vessel or an aircraft destined for Niue) before the regulations prohibiting its importation came into force.

(8) Despite (7), the Biosecurity Authority may require the item to be inspected and, if necessary, treated or destroyed, at the owner's expense. If the item is destroyed, the owner is not entitled to compensation for its destruction.

8 Cabinet may regulate importation of items

(1) Cabinet may make regulations requiring that one or more of the following be satisfied before an item may be imported:

- (a) the granting of an import permit for the item under section 76;
- (b) treatment of the item on arrival (which must be no more than is reasonably necessary to reduce or eliminate any biosecurity risk that may arise from allowing the item to be imported);
- (c) if the item is an animal or animal product, a sanitary certificate;
- (d) if the item is a plant or plant product, a phytosanitary certificate.

(2) Before acting under subsection (1), Cabinet must consult the Biosecurity Authority, which must, as part of the consultation, provide Cabinet with a biosecurity risk assessment for the item or items and, in doing so, must have regard to —

- (a) the requirements of any relevant international instrument such as the World Trade Organization Agreement on the Application of Sanitary and Phytosanitary Measures (commonly known as the SPS Agreement; and
- (b) any generally accepted principle of international law relating to biosecurity.

(3) A person who imports or attempts to import an item in breach of regulations made under subsection (1) commits an offence and is liable on conviction to —

- (a) in the case of an individual, a fine not exceeding 500 penalty units or a term of imprisonment not exceeding 15 months, or both;
- (b) in any other case, a fine not exceeding 2 500 penalty units.

(4) A person who owns or possesses an item imported in breach of regulations made under subsection (1) commits an offence and is liable on conviction to —

- (a) in the case of an individual, a fine not exceeding 500 penalty units or a term of imprisonment not exceeding 15 months, or both;
- (b) in any other case, a fine not exceeding 2 500 penalty units.

(5) However, subsection (4) does not apply if the item was imported or was in the process of being imported (for example, the item was on board a vessel or an aircraft destined for Niue) before the regulations prohibiting its importation came into force.

(6) Despite subsection (5), the Biosecurity Authority may require the item to be inspected and, if necessary, treated or destroyed, at the owner's expense. If the item is destroyed, the owner is not entitled to compensation for its destruction.

9 Cabinet may prohibit exportation of items

(1) Cabinet may make regulations prohibiting the exportation of one or more items if the Minister has consulted the Biosecurity Authority and it has confirmed that—

- (a) dealings with the item or items are prohibited under generally accepted international law; or .
- (b) the receiving country for the item or items prohibits their importation and the country has notified the Biosecurity Authority of that fact. .

(2) The Biosecurity Authority must review regulations made under this section at not more than 12-monthly intervals, the first interval beginning on the date on which the regulations come into force, and make any recommendations for change to Cabinet.

(3) A person who exports or attempts to export an item prohibited under subsection (1) commits an offence and is liable on conviction —

- (a) in the case of an individual, to a fine not exceeding 500 penalty units or a term of imprisonment not exceeding 15 months, or both;
- (b) in any other case, to a fine not exceeding 2 500 penalty units.

10 Cabinet may regulate pests, diseases, and LMOs already present in Niue

(1) Cabinet may make regulations setting rules in respect of a pest, disease, or LMO already present in Niue.

(2) Before acting under subsection (1), Cabinet must consult the Biosecurity Authority, which must, as part of the consultation, provide Cabinet with a biosecurity risk assessment for the pest, disease, or LMO.

(3) A person who acts in breach of any rule made under subsection (1) commits an offence and is liable on conviction—

- (a) in the case of an individual, to a fine not exceeding 500 penalty units or a term of imprisonment not exceeding 15 months, or both;
- (b) in any other case, to a fine not exceeding 2 500 penalty units.

PART 3

BIOSECURITY CONTROLS RELATING TO ARRIVALS, DEPARTURES, AND TRANSITS

Arrivals

11 Incoming passengers and crew

(1) Every person who arrives in Niue on board a vessel or an aircraft, including the crew, must complete a passenger arrival declaration in a form prescribed by the Director and provide it to a biosecurity officer.

(2) A biosecurity officer may, before granting entry to the person, detain the person for questioning or search or detain any baggage in the possession of the person for inspection.

(3) A person who fails to make a declaration as required by subsection (1), or provides false or misleading information in a declaration, commits an offence and is liable on conviction to a fine not exceeding 500 penalty units or a term of imprisonment not exceeding 15 months, or both.

(4) Nothing in this section limits or affects section 16.

12 Incoming vessels and aircraft

(1) The captain of a vessel or an aircraft arriving in Niue must —

- (a) make an arrival declaration in the prescribed form; and
- (b) obtain clearance for the vessel or aircraft in accordance with subsection (3).

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- (2) An arrival declaration —
 - (a) must be made
 - (i) not less than 72 hours before the estimated time of arrival for a scheduled visit; or
 - (ii) not less than 12 hours before the estimated time of arrival for an unscheduled visit; and
 - (b) may be made by electronic means, in accordance with any directions of the chief biosecurity officer; and
 - (c) may be made through a biosecurity clearance agent; and
 - (d) may be made in conjunction with or as part of a declaration made for the purposes of customs or other border matters.
- (3) For the purposes of subsection (1)(b), the captain must, immediately on arrival —
 - (a) take the vessel or aircraft to the seaport or airport biosecurity holding area and permit a biosecurity officer to board and search it; and
 - (b) provide to the biosecurity officer any of the following documents that he or she requests:
 - (i) the log, cargo manifest, bill of lading, stores list, passenger . list, or crew list for the vessel or aircraft:
 - (ii) any other document relating to the vessel or aircraft that the officer believes on reasonable grounds is necessary for him or her to inspect for the purposes of deciding whether to grant clearance for the vessel or aircraft; and
 - (c) complete a clearance application in the prescribed form and pay the prescribed fee.
- (4) A biosecurity officer may grant clearance for a vessel or an aircraft if he or she is satisfied that —
 - (a) there is no prohibited pest or disease, prohibited or non-complying LMO, or prohibited or non-complying restricted item in or on the vessel or aircraft; and
 - (b) there is no other thing in or on the vessel or aircraft that may pose a biosecurity threat to Niue; and
 - (c) the prescribed fee has been paid (or will be paid in accordance with any payment schedule previously agreed between the Biosecurity Authority and the owner of the vessel or aircraft).
- (5) A clearance may be granted unconditionally or subject to specified conditions. If the clearance is granted subject to specified conditions, the owner of the vessel or aircraft must pay a bond in the prescribed amount.
- (6) Without limiting subsection (5) —
 - (a) the captain of a vessel may be required to clean the outside of the vessel before being permitted to bring the vessel into port and, for that purpose, the chief may direct the captain to take the vessel a minimum specified distance offshore before the cleaning begins;
 - (b) the captain of an aircraft may be required to clean the outside of the aircraft and, for that purpose, the chief biosecurity officer may direct the captain to park the aircraft in a particular location before . the cleaning begins.
- (7) No person or thing may leave a vessel or an aircraft without the permission of a biosecurity officer until clearance has been granted for it.
- (8) The captain of a vessel or an aircraft commits an offence who —
 - (a) fails to make an arrival declaration or knowingly provides false or misleading information for the purposes of the declaration; or

- (b) fails to obtain clearance or fails to comply with any conditions of clearance imposed under subsection (5); or
- (c) knowingly allows any person or thing to leave a vessel or an aircraft in breach of subsection (7).

(9) A biosecurity agent who fails to make an arrival declaration or knowingly provides false or misleading information for the purposes of a declaration commits an offence.

(10) A person who leaves a vessel or an aircraft without the permission of a biosecurity officer before clearance has been granted for the vessel or aircraft commits an offence.

(11) A person convicted of an offence against any of subsections (8) to (10) is liable—

- (a) in the case of an individual, to a fine not exceeding 500 penalty units or a term of imprisonment not exceeding 15 months, or both;
- (b) in any other case, to a fine not exceeding 2 500 penalty units.

13 Quarantine of vessels and aircraft .

(1) The chief biosecurity officer may, by written notice, order the captain of a vessel or an aircraft to move it to a quarantine area, on its arrival or during or after inspecting it for clearance purposes, if the chief biosecurity officer believes on reasonable grounds that the vessel or aircraft —

- (a) is infected, contaminated, or infested with or by a prohibited pest or disease; or
- (b) is carrying one or more prohibited or non-complying LMOs; or
- (c) is carrying one or more prohibited or non-complying restricted items; or
- (d) is carrying one or more things permitted under section 79 in breach of any conditions of that permission; or
- (e) is carrying any other thing that the chief biosecurity officer believes on reasonable grounds may pose a biosecurity threat to Niue.

(2) The notice must give the reasons why the order has been made.

(3) However, if the chief biosecurity officer believes on reasonable grounds that a vessel or an aircraft poses a serious biosecurity threat to Niue that cannot adequately be mitigated at a quarantine area —

- (a) the Director must immediately inform the Minister; and
- (b) the Minister may order the vessel or aircraft to leave Niue having first consulted the director of the government department responsible for the movement of vessels or aircraft, as the case may be. .

(4) The owner of a quarantined vessel or aircraft is responsible for any costs incurred as a result of its quarantining, including any treatment of the aircraft or vessel or, as the case may be, the costs associated with the vessel or aircraft being required to leave Niue. .

14 Management of quarantined vessel or aircraft

(1) The chief biosecurity officer must give written directions to the captain of a quarantined vessel or aircraft on the following matters: .

- (a) the movement of the vessel or aircraft while quarantined and, if applicable, the movement of passengers and crew who arrived on the vessel or aircraft; and
- (b) any treatment to be taken in relation to the vessel or aircraft.

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(2) A vessel or an aircraft may be released from a quarantine area only if the chief biosecurity officer is satisfied that —

- (a) it is substantially free from the biosecurity risk for which it was . quarantined (including the suitable containment on the vessel or aircraft of any thing that is to be reconsigned); and
- (b) any quarantine costs incurred have been paid.

(3) The release may be unconditional or subject to specified conditions, in which case the owner of the vessel or aircraft must pay a bond in the prescribed amount.

(4) The captain of a vessel or an aircraft who fails to take all reasonable . steps to comply with any directions given under subsection (1) commits an offence and is liable on conviction to a fine not exceeding . 500 penalty units or a term of imprisonment not exceeding 15 months, or both.

15 Obligations of captains while vessel or aircraft in Niue

(1) The captain of a vessel must, while the vessel is berthed in, or moored off, Niue, ensure that —

- (a) all necessary steps are taken to prevent any animal on board the vessel from making contact with any animal on shore, unless . permitted by and then only as directed by the officer; and .
- (b) rodent guards are secured on the vessel's mooring lines when berthing or mooring and during the vessel's stay; and
- (c) the vessel complies with any prescribed rat extermination requirements; and
- (d) all hatches, holds, and enclosed cargo areas are sealed during the hours of darkness, other than when necessary for the working of . the vessel, including when necessary for the care of the vessel's cargo; and
- (e) all rubbish generated on the vessel is stored in securely fastened and leak-proof containers; and
- (f) no sewage, bilge, ballast, or other wastewater is discharged into . the sea; and
- (g) no stores are removed from the vessel, except in accordance with the directions of a biosecurity officer.

(2) The captain of an aircraft must, while the aircraft is landed in Niue, ensure that —

- (a) all necessary steps are taken to prevent any animal on board the aircraft from making contact with any animal outside the aircraft, unless permitted by a biosecurity officer, and then only as directed by the officer; and
- (b) all rubbish generated on the aircraft is stored in securely fastened and leak-proof containers; and
- (c) no sewage or other wastewater is discharged from the aircraft; and
- (d) no stores are removed from the aircraft, except in accordance with the directions of a biosecurity officer.

(3) Rubbish on a vessel that is berthed in or moored off Niue, or on an aircraft landed in Niue, may be removed and disposed of only in accordance with the . directions of a biosecurity officer, and all the costs of disposal, including those relating to the biosecurity officer performing his or her functions, are the responsibility of the owner of the vessel or aircraft and must be paid before it leaves (unless payment has been otherwise agreed between the Biosecurity Authority and the owner).

(4) A captain of a vessel or an aircraft who breaches subsection (1) or (2) commits an offence and is liable on conviction to a fine not exceeding 500 penalty units or a term of imprisonment not exceeding 15 months, or both.

(5) A person who breaches subsection (3) commits an offence and is liable on conviction—

- (a) in the case of an individual, to a fine not exceeding 500 penalty units or a term of imprisonment not exceeding 15 months, or both;
- (b) in any other case, to a fine not exceeding 2 500 penalty units.

16 Incoming items

(1) Every item arriving in Niue other than as baggage must be accompanied by —

- (a) an import clearance application in a form prescribed by the Director and be accompanied by the prescribed fee; and
- (b) if the item is a restricted item, evidence of compliance with the import specifications for the item.

(2) On arrival, any item may be inspected by a biosecurity officer and, for that purpose, the importer of the item must be present and, at the request of the officer, must —

- (a) open the container holding the item or enable the officer to do so; and
- (b) permit the officer to inspect the item; and
- (c) permit the officer to take samples, conduct tests, or take any other action reasonable in the circumstances for the purpose of the officer deciding whether the item may be imported.

(3) A biosecurity officer may do one of the following in relation to an incoming item —

- (a) grant clearance for the item, if he or she is satisfied that —
 - (i) the item is not a prohibited item; and
 - (ii) if the item is a restricted item, the import specifications have been complied with; and
 - (iii) if the item is one to which subsection (1) applies, the application is correctly made and the prescribed fee has been paid;
- (b) grant clearance for the item subject to conditions, including a condition that the item be quarantined, if he or she is satisfied that —
 - (i) the item satisfies the requirements of paragraph (a) but, despite that, a biosecurity, risk still exists (for example, because the item, during its transportation, has been or is suspected of being infected, contaminated, or infested with or by a prohibited pest or disease); or
 - (ii) the item satisfies the requirements of paragraph (a)(i) and (iii) but only partly satisfies the requirements of paragraph (a)(ii); or
- (c) refuse to grant clearance, in which case the item must be —
 - (i) reconditioned on the vessel or aircraft on which it arrived or, in the case of an item that has arrived by post, placed on the next available vessel or aircraft that carries postal items from Niue; or
 - (ii) destroyed if the chief biosecurity officer considers that the biosecurity risk posed by the item is such that reconditioning it is insufficient to adequately deal with the risk.

(4) The costs associated with the granting of an import clearance are the responsibility of the importer of the item.

(5) The owner of an item who fails to, comply a requirement of subsection (1) commits an offence.

(6) A person who fails to comply with a request of a biosecurity officer under subsection (2) commits an offence.

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- (7) A person convicted of an offence against subsection (5) or (6) is liable —
- (a) in the case of an individual, to a fine not exceeding 500 penalty units or a term of imprisonment not exceeding 15 months, or both;
 - (b) in any other case, to a fine not exceeding 2 500 penalty units.
- (8) To avoid doubt, subsections (2), (3), (4), (6), and (7) apply to all items that enter Niue, whether as baggage or otherwise.

Departures

17 Export of items

- (1) Any item to be exported from Niue may be inspected by a biosecurity officer before its departure, including for the purpose of determining whether —
- (a) the item is a prohibited item; or
 - (b) the item is subject to section 18 and, if so, whether clearance has been granted for the item under that section.
- (2) For the purpose of subsection (1), the exporter of the item must, on the request of a biosecurity officer —
- (a) open the container holding the item or enable the officer to do so; and
 - (b) permit the officer to inspect the item; and
 - (c) permit the officer to take samples, conduct tests, or take any other action reasonable in the circumstances for the purpose of the officer deciding whether the item may be exported.
- (3) A person commits an offence who —
- (a) exports, or attempts to export, a prohibited item; or
 - (b) exports, or attempts to export, an item subject to section 18 without clearance being granted under that section; or
 - (c) fails to comply with a request of a biosecurity officer under subsection (2).
- (4) A person convicted on an offence against subsection (3) is liable—
- (a) in the case of an individual, to a fine not exceeding 500 penalty units or a term of imprisonment not exceeding 12 months, or both;
 - (b) in any other case, to a fine not exceeding 2 500 penalty units.
- (5) To avoid doubt, this section applies to all items that leave Niue, whether as baggage or otherwise.

18 Clearance required for certain items

- (1) An item must not leave Niue if either or both of the following apply unless it is granted export clearance under this section —
- (a) the receiving country requires a sanitary certificate or phytosanitary certificate before the item may be exported to that country;
 - (b) the receiving country requires the item to be treated before it may be exported to that country.
- (2) An application for export clearance must —
- (a) be in a form prescribed by the Director and be accompanied by the prescribed fee; and
 - (b) be made before the item reaches its departure point from Niue; and
 - (c) be made, in accordance with subsection (3), no later than —
 - (i) 7 days before departure (unless otherwise agreed with the chief biosecurity officer) if the item will be outgoing by aircraft;

- (ii) 14 days before departure (unless otherwise agreed with the chief biosecurity officer) if the item will be outgoing by sea.
- (3) The person must —
 - (a) present the item, the application, and the fee to a biosecurity officer at a location specified by the Biosecurity Authority; and
 - (b) permit the officer to take samples, conduct tests, or take any other action reasonable in the circumstances for the purpose of deciding whether the requirements of the receiving country have been satisfied.
- (4) The costs associated with the granting of an export clearance are the responsibility of the exporter of the item, and a biosecurity officer may withhold granting export clearance and any relevant certificate until those costs have been paid.
- (5) To avoid doubt, this section applies to all items that leave Niue, whether as baggage or otherwise.

19 Departing passengers and crew

- (1) Every person who leaves Niue on board a vessel or an aircraft, including the crew, must, before leaving —
 - (a) submit for inspection, on the request of a biosecurity officer, any item on the person or in the person's baggage; and
 - (b) permit the officer to search the person's baggage.
- (2) A person who fails to comply with subsection (1) commits an offence and is liable on conviction to a fine not exceeding 50 penalty units or a term of imprisonment not exceeding 3 months, or both.
- (3) Nothing in this section limits or affects sections 17 and 18.

20 Search of departing vessels and aircraft

- (1) Subsection (2) applies if the chief biosecurity officer believes on reasonable grounds that there are one or more things on board a vessel or an aircraft leaving Niue that are prohibited items or non-complying restricted items.
- (2) A biosecurity officer may stop the vessel or and do one or more of the following:
 - (a) board and search the vessel or aircraft;
 - (b) require the captain to produce for inspection the log, cargo manifest, bill of lading, stores list, passenger list, crew list, or any other document;
 - (c) direct the captain not to move the vessel or aircraft unless permitted by the officer, and then only as directed by the officer;
 - (d) give the captain any other instruction that is reasonably necessary to protect the receiving country from any biosecurity risk posed by the vessel or aircraft, including requiring the captain to allow the vessel or aircraft to be subjected to any treatment necessary to eliminate that risk.
- (3) A person commits an offence who refuses to permit a search pursuant to subsection (2)(a) or fails to comply with a requirement, direction, or instruction given under any of subsection (2)(b) to (d) and is liable on conviction to a fine not exceeding 100 penalty units or a term of imprisonment not exceeding 12 months, or both.

Transits

21 Individuals and items in transit

- (1) A biosecurity officer may require an individual who is in transit through Niue to complete the arrival, departure, or both arrival and departure requirements imposed on a person under this Act if the officer believes on reasonable grounds that

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the individual or his or her baggage may pose a biosecurity risk to Niue or the receiving country.

(2) Any item other than baggage that is in transit through Niue may be subject to the import, export, or import and export requirements imposed on items under this Act if a biosecurity officer believes on reasonable grounds that the item may pose a biosecurity risk to Niue or the receiving country.

(3) An individual who refuses to comply with a requirement under subsection (1) commits an offence and is liable on conviction to a fine not exceeding 50 penalty units or a term of imprisonment not exceeding 3 months, or both.

(4) The owner of an item to which subsection (2) applies who refuses to comply with that subsection commits an offence and is liable on conviction —

- (a) in the case of an individual, to a fine not exceeding 50 penalty units or a term of imprisonment not exceeding 3 months, or both;
- (b) in any other case, to a fine not exceeding 250 penalty units.

PART 4

INTERNAL BIOSECURITY CONTROLS

22 Pest and disease surveys

(1) The Biosecurity Authority may conduct a survey of any area of Niue —

- (a) to determine the presence, absence, prevalence, incidence, distribution, or occurrence of any pest or disease in the area;
- (b) to determine the biosecurity risk of moving humans, animals, plants, animal products, plant products, or organisms into, out of, or through the area;
- (c) for any other purpose necessary to ensure the effective implementation of this Act.

(2) For the purposes of conducting a survey, the Authority may, in the survey area —

- (a) inspect and test any inanimate thing, including machinery and equipment;
- (b) test, or take specimens of any animals, plants, animal products, plant products, air, land, or water;
- (c) seek information from any person.

(3) However, a biosecurity officer may undertake an activity referred to in subsection (2)(a) or (b) in relation to a private home only if he or she has a warrant.

(4) A person commits an offence who refuses to —

- (a) permit a biosecurity officer to enter any land, building, or premises, or any private home with a warrant, for the purposes of this section; or
- (b) answer, to the best of his or her knowledge and ability, oral or written questions reasonably put to the person by a biosecurity officer; or
- (c) make available animals, plants, animal products, plant products, or any other thing in the ownership, custody, or control of the person as required.

(5) A person who commits an offence against subsection (4) is liable on conviction —

- (a) in the case of an individual, to a fine not exceeding 50 penalty units or a term of imprisonment not exceeding 3 months, or both;
- (b) in any other case, to a fine not exceeding 250 penalty units.

23 Internal of prohibited pests and diseases, LMOs, etc

(1) This section applies if a biosecurity officer believes on reasonable grounds that —

- (a) a prohibited pest or disease, an LMO prohibited under section 6, or a prohibited item is present in Niue; or
 - (b) an LMO regulated under section 6 and lawfully present in Niue poses a biosecurity risk; or
 - (c) an item or other thing lawfully present in Niue poses a biosecurity risk.
- (2) The biosecurity officer may —
- (a) stop, board, and search any vessel, aircraft, or vehicle;
 - (b) enter and search any land, including land adjacent to a private home;
 - (c) with the consent of the owner, enter and search a private home;
 - (d) with a warrant, enter and search a private home.
- (3) A biosecurity officer may seize any of the following while conducting a search for the purposes of this section:
- (a) any thing that is evidence of the commission of an offence under this Act;
 - (b) any thing that poses a biosecurity risk.
- (4) A biosecurity officer who seizes any thing from a person under subsection (3) must —
- (a) inform the person of the reason for seizing the thing; and
 - (b) give the person a receipt for the thing seized; and
 - (c) remove the thing to a quarantine station or other place of safekeeping and deal with it in accordance with this Act.

24 Detention, testing, and treatment of animals, plants, animal products, and plant products

- (1) The Biosecurity Authority may require an animal, plant, animal product, or plant product to be held at a place specified by the chief biosecurity officer for testing if a biosecurity officer suspects it of being infected, contaminated, or infested with or by a prohibited pest or disease.
- (2) If, after testing, the chief biosecurity officer considers that the animal, plant, animal product, or plant product poses a biosecurity risk, the Authority may —
- (a) continue to hold it for as long as is necessary to eliminate that risk and, during that time, treat it as necessary; or
 - (b) destroy it, if treatment will not eliminate the risk or an appropriate treatment to eliminate the risk is not available in Niue.
- (3) For the purposes of this section, a biosecurity officer —
- (a) may direct the owner or person in possession of the animal, plant, animal product, or plant product to remove it to the place specified under subsection (1) or arrange for it to be removed to the specified place; and
 - (b) must give the owner or person in possession written notice in the prescribed form stating the reasons why the animal, plant, animal product, or plant product has been detained; and
 - (c) if applicable, must give the owner or person in possession written notice in the prescribed form stating where the animal, plant, animal product, or plant product is to be destroyed and the reasons for its destruction.
- (4) The Authority is not responsible for the costs incurred by any person in complying with this section and, if any animal, plant, animal product, or plant product is damaged during its removal, holding, or treatment, or required to be destroyed, the owner is not entitled to compensation for the damage or destruction.

25 Declaration of controlled infested area

(1) Cabinet may, by public notice declare any area of Niue to be a controlled infested area if an animal or a plant in that area is found to be infected, contaminated, or infested with or by a prohibited pest or disease or an LMO prohibited under section 6.

(2) A notice made under subsection (1) —

- (a) must be made as soon as practicable after the finding; and
- (b) must specify the people and things that may not be moved into, out of, and within the area except in accordance with any conditions specified in the declaration; and
- (c) may include an area adjacent to the controlled area if necessary to effectively contain the infestation.

(3) A person who breaches a declaration made under subsection (1) commits an offence and is liable on conviction—

- (a) in the case of an individual, to a fine not exceeding 50 penalty units or a term of imprisonment not exceeding 3 months, or both;
- (b) in any other case, to a fine not exceeding 250 penalty units.

26 Management of controlled infested area.

(1) In a controlled infested area, the Biosecurity Authority —

- (a) must ensure the terms of the declaration as a controlled infested area are complied with; and
- (b) may carry out one or more of the following activities to deal with the infestation:
 - (i) enter any land, building, or premises within the area and, if necessary, destock, clean, disinfect, or otherwise treat it;
 - (ii) with the consent of the owner, enter a private home and, if necessary, clean, disinfect, or otherwise treat it;
 - (iii) with a warrant, enter a private home and, if necessary, clean, disinfect, or otherwise treat it;
 - (iv) treat or destroy diseased animals and plants or any other thing, whether inside or outside the area;
 - (v) and treat any restricted item going into, out of, or within the area;
 - (vi) subject to the terms of the declaration, take any other measures that the chief biosecurity officer considers necessary to control the infestation, including measures necessary to control or prevent the movement of any host material of the prohibited pest, disease, or LMO to which the declaration relates within, or outside of the area.

(2) The Authority must consult the Environment Department before carrying out any activity described in any of subparagraphs (i) to (iv) of subsection (1)(b).

(3) The Authority is not responsible for the costs incurred by any person in complying with this section and, if any thing is damaged by any action, or is required to be destroyed, the owner is not entitled to compensation for the damage or destruction.

27 Revocation of declaration of controlled infested area

Cabinet must, by public notice revoke a declaration made under section 25 as soon as practicable after the Biosecurity Authority has advised Cabinet that the declaration is no longer necessary.

28 Declaration of pest-free area

(1) For the purposes of preventing the spread of a pest or a disease, Cabinet may, by public notice declare any area of Niue to be a pest-free area in respect of that pest or disease.

(2) Cabinet may make a declaration under subsection (1) only if the area to which the declaration will apply is an area —

- (a) in which, in the opinion of the Biosecurity Authority (having consulted the Health Department and the Environment Department), the pest or disease does not occur; and
- (b) in relation to which incursions of the pest or disease should be prevented.

29 Management of pest-free area

In an area declared to be a pest-free area under section 28, the Biosecurity Authority may, for the purposes of preventing incursions of the relevant pest or disease into the area —

- (a) control the movement of people and things into, out of, and within the area; and
- (b) inspect and treat or require the treatment of any restricted item entering, within, or leaving the area; and
- (c) monitor the area for any signs of incursion of the pest or disease into the area.

30 Destruction of wild animals

(1) This section applies if the chief biosecurity officer believes on reasonable grounds that a wild or feral animal is infected, contaminated, or infested with or by a prohibited pest or disease.

(2) The chief biosecurity officer may cause the animal to be destroyed and dispose of its carcass in a way that avoids, or avoids any risk of, the spread of the pest or disease.

(3) In this section, wild or feral animal includes any domestic animal that is untethered or unconfined and located more than 100 metres from the animal owner's private home or premises.

31 Notifiable pests and diseases

(1) Cabinet may declare, by public notice —

- (a) a pest or disease to be a notifiable pest or disease; and
- (b) the manner in which a person must notify the Biosecurity Authority of the occurrence of any notifiable pest or disease.

(2) A person who knows of or suspects the occurrence in Niue of a notifiable pest or disease must, as soon as is reasonably practicable, notify the Authority in the manner specified in the notice.

(3) Subsection (2) applies unless the person reasonably believes that the Authority has already been notified of the occurrence.

(4) The captain of a vessel or an aircraft arriving or departing from Niue who knows of or suspects the occurrence of a notifiable pest or disease on board the vessel or aircraft must —

- (a) as soon as is reasonably practicable, notify the Authority in the manner specified in the notice; and
- (b) take any action in relation to the vessel or aircraft that the chief biosecurity officer requires.

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(5) A person who fails to comply with subsection (2) or (4) without reasonable excuse commits an offence and is liable on conviction to a fine not exceeding 50 penalty units or a term of imprisonment not exceeding 3 months, or both.

(6) The Authority must record in the register all occurrences of notifiable pests or diseases notified under this section or that are otherwise brought to the notice of the Authority.

32 Release of beneficial organisms and biocontrol agents

(1) Cabinet may authorise in writing the release of beneficial organisms or biocontrol agents that are necessary or suitable for the control or eradication of a pest or disease in Niue.

(2) Before acting under subsection (1), Cabinet must consult the Biosecurity Authority as to the biosecurity risks of the release.

(3) An authorisation under subsection (1) must —

- (a) identify the beneficial organism or biological agent; and
- (b) identify the pest or disease that it is intended to control; and
- (c) identify the area in Niue where it may be released; and
- (d) specify when it may be released; and
- (e) identify the person or persons who may release it and the reporting requirements in relation to the release; and
- (f) state any other conditions to which a release is subject.

(4) The Authority must record in the register —

- (a) the names of any beneficial organisms or biological agents released under this section; and
- (b) the place and extent of any release.

33 Cabinet may declare biosecurity emergency

(1) Cabinet may declare a biosecurity emergency in to the whole or any area of Niue by public notice but only if the Biosecurity Authority has advised Cabinet that —

- (a) an outbreak of a pest or disease has occurred or is likely to occur; and
- (b) the pest or disease poses a serious biosecurity threat to Niue.

(2) A declaration takes effect on the day after public notice is given and notice of the emergency must be displayed on notice boards or signs, or both, throughout the island and within the area concerned.

(3) Cabinet must, by public notice, revoke a declaration made under subsection (1) as soon as practicable after the Authority has advised Cabinet that the biosecurity threat to which the emergency relates is resolved or the threat is now of such a magnitude that emergency measures are no longer required.

(4) Despite subsection (3), a declaration that is in force 6 months after the date on which it came into force is revoked without further authority than this section unless the declaration is extended on or before that date by a further declaration of Cabinet made in accordance with subsection (1).

(5) Subsections (2) and (3) apply to any further declaration of Cabinet made under subsection (4).

34 Management of biosecurity emergency

(1) During a biosecurity emergency, the following persons may take the following actions in the area to which a biosecurity emergency declaration relates (the emergency area) —

- (a) the Minister may require the Chief of Police and any government department to use their resources and lawful powers to assist the Biosecurity Authority in the control or eradication of the pest or disease to which the emergency relates;
- (b) the Director may, in writing, requisition for use by any authorised person any vessel, aircraft, vehicle, machinery, equipment, or other thing that the Director considers necessary to eradicate, prevent, or limit the spread of the pest or disease to which the emergency relates;
- (c) the Director may authorise any person, whether resident in Niue or not, to assist the Biosecurity Authority to effectively respond to the biosecurity emergency.

(2) During a biosecurity emergency, the Biosecurity Authority may take or cause to be taken one or more of the following actions in the emergency area —

- (a) mark the boundaries of the area;
- (b) set up roadblocks at one or more of the entries to and exits from the area;
- (c) set up facilities for the cleaning and disinfection of people, vessels, aircraft, vehicles, machinery, equipment, or any other thing likely to spread the pest or disease to which the emergency relates at one or more of the entries to and exits from the area;
- (d) inspect and, if necessary, disinfect or otherwise treat any person or thing entering or leaving the area who or that is likely to carry the pest or disease or its host material;
- (e) for the purposes of paragraph (d), detain a person or thing for as long as is necessary to minimise or eliminate any biosecurity risk presented by the person or thing.

(3) For the purposes of acting under subsection (2), the Biosecurity Authority may require assistance from any government department that is reasonable in the circumstances, and the directors of those departments must ensure that any personnel, machinery, equipment, or other things requested by the Biosecurity Authority are supplied.

(4) A person commits an offence who —

- (a) resists, knowingly obstructs, or knowingly and without reasonable excuse fails to comply with a direction of a biosecurity officer, police officer, or other authorised person performing functions in respect of a biosecurity emergency;
- or
- (b) knowingly enters or leaves a biosecurity emergency area other than in accordance with the directions of a biosecurity officer, police officer, or other authorised person; or
- (c) knowingly moves any thing out of or into a biosecurity emergency area, or from one place within the area to another place within the area, except with the permission of a biosecurity officer, police officer, or other authorised person.

(5) A person who commits an offence against subsection (4) is liable on conviction—

- (a) in the case of an individual, to a fine not exceeding 500 penalty units or a term of imprisonment not exceeding 15 months, or both;
- (b) in any other case, to a fine not exceeding 2 500 penalty units.

(6) Any thing moved in breach of any direction or requirement given under this section may be seized by a biosecurity officer or police officer and —

- (a) held pending criminal proceedings for the breach; or

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- (b) if necessary to remove any biosecurity risk, destroyed as the chief biosecurity officer directs.
- (7) In respect of any action taken under this section —
 - (a) the Government is responsible for the cost of treatment or destruction of any thing; and
 - (b) the owner of any land, premises, or thing that is or are used, lost, damaged, or destroyed is entitled to compensation for that use, loss (other than consequential loss), damage, or destruction.

PART 5

ADMINISTRATIVE PROVISIONS

Niue Biosecurity Authority

35 Niue Biosecurity Authority established

- (1) This section establishes the Niue Biosecurity Authority.
- (2) The Biosecurity Authority comprises —
 - (a) the Director of the Department; and
 - (b) the chief biosecurity officer appointed under section 38; and
 - (c) the senior biosecurity officer appointed under section 39; and
 - (d) one or more biosecurity officers appointed under section 40(1); and
 - (e) one or more other biosecurity officers (being the individuals referred to in section 40(2)); and
 - (f) any administrative, support, or other ancillary staff as is necessary.

36 Functions of Biosecurity Authority

- (1) The functions of the Biosecurity Authority are —
 - (a) to protect Niue against pests and diseases, including by —
 - (i) preventing their introduction, establishment, and spread to or within Niue;
 - (ii) monitoring, eradicating, containing, or controlling their movement, if already present in Niue;
 - (iii) assessing whether a pest or disease should be prohibited or regulated under this Act;
 - (b) to prevent the release, establishment, and spread of other organisms that may adversely affect animals, plants, human beings, and the Niuean environment;
 - (c) to facilitate the safe importation of animals, plants, animal products, and plant products, and any related equipment and technology;
 - (d) to facilitate the exportation of animals, plants, animal products, and plant products in accordance with the biosecurity requirements of receiving countries;
 - (e) to facilitate the safe import and export of other things to and from Niue;
 - (f) to facilitate Niue's contribution to international efforts to prevent the spread of pests and diseases affecting animals, plants, human beings, and the environment;
 - (g) to provide advice to Cabinet, the Minister, and the Director on biosecurity matters;
 - (h) to prepare and maintain, in consultation with relevant government departments, a biosecurity emergency response plan;
 - (i) if necessary, to implement the biosecurity emergency response plan;
 - (j) to prepare and maintain an operations manual for biosecurity officers;

(k) to publicise this Act and its requirements and increase public awareness generally of the importance of biosecurity issues.

(2) The Authority must carry out its functions in accordance with this Act. However, to avoid doubt, it is required to fulfil this responsibility only to the extent that available funding and resources allow.

37 Director

(1) The Director is responsible to the Minister and the Secretary to the Government for the efficient and effective management of the Biosecurity Authority.

(2) The functions of the Director are to —

- (a) administer this Act; and
- (b) ensure that the Authority appropriately carries out its functions; and
- (c) advise the Minister on any matter relating to biosecurity (after consulting the chief biosecurity officer); and
- (d) report to the Minister on any matter relating to biosecurity that the Minister directs (after consulting the chief biosecurity officer); and
- (e) liaise with other government departments on matters relating to biosecurity; and
- (f) perform any functions and exercise any powers conferred on him or her under this Act.

(3) The Public Service Commission may appoint a suitably qualified person (whether from the Department or otherwise) to perform the Director's functions or exercise his or her powers under this Act for any period during which the Director is absent from Niue or is temporarily unable to do so, and this Act applies, with any necessary modifications, as if that person were the Director..

38 Chief biosecurity officer

(1) The Public Service Commission must, by written notice, appoint a suitably qualified person (whether from the Department or otherwise) as the chief biosecurity officer..

(2) The chief biosecurity officer is responsible to the Director for the efficient and effective operation of the Biosecurity Authority and, for that purpose, must —

- (a) supervise and administer the Authority; and
- (b) perform the functions and exercise the powers delegated to him or her by the Director; and
- (c) perform the functions and exercise the powers conferred directly on him or her by this Act.

(3) However, before performing any technical function under this Act in respect of which a government department has a legitimate interest, the chief biosecurity officer must consult the director of that department (for example, in a biosecurity emergency, the Director for the Environment must be consulted).

39 Senior biosecurity officer

(1) The Public Service Commission must, by written notice, appoint a suitably qualified person (whether from the Department or otherwise) as the senior biosecurity officer.

(2) For any period during which the chief biosecurity officer is absent from Niue or is temporarily unable to perform or exercise his or her functions and powers under this Act, the senior biosecurity officer is the acting chief biosecurity officer and

this Act applies, with any necessary modifications, as if the senior biosecurity officer were the chief biosecurity officer.

40 Biosecurity officers

(1) The Public Service Commission may, by written notice, appoint one or more biosecurity officers as may be necessary for the purposes of this Act.

(2) In addition, the Director, on the chief biosecurity officer's advice, may, by written notice, designate one or more public servants (whether by name, class, or as the holder of a particular position) as biosecurity officers for the purposes of one or more of the following:

- (a) to assist with a biosecurity emergency;
- (b) to assist with the inspection of a vessel or an aircraft;
- (c) to assist in the monitoring, eradication, containment, or of a pest or disease;
- (d) to assist with any other matter that the chief biosecurity officer reasonably considers necessary.

(3) A designation as a biosecurity officer made under subsection (2) continues until expressly revoked by the Director. However, a designated person may perform the functions and exercise the powers of a biosecurity officer only —

- (a) as directed by the chief biosecurity officer; and
- (b) for the specified purpose for which the person was designated a biosecurity officer.

41 Duty to co-ordinate functions and report certain matters

(1) The Biosecurity Authority must, as far as is reasonably practicable, carry out its responsibilities under this Act in co-ordination with other government departments with responsibilities in areas that relate to the same or similar subject matter as the Authority (for example, those departments dealing with immigration, customs, natural resources, health, and the environment).

(2) Without limiting subsection (1), a biosecurity officer must notify an officer of the Customs Department or an immigration officer of any breach of the Customs Act 1966 or the Immigration Act 2011 that comes to his or her attention.

(3) Other government departments must, so far as is reasonably practicable, carry out their responsibilities in co-ordination with the Authority.

(4) Without limiting subsection (3), immigration officers, officers of the Customs Department, and employees of the Niue Post Office must —

- (a) notify a biosecurity officer of the importation or proposed exportation of any prohibited or restricted item that comes to their attention; and
- (b) hand to a biosecurity officer any prohibited or restricted item that comes into their possession.

Powers of biosecurity officers

42 Power to inspect

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

- (a) anything has been, is being, or is about to be done in or on that place in breach of this Act; or
- (b) there is in or on that place any thing whose presence is a breach of this Act, whether absolutely or by virtue of the lack of some necessary clearance.

(2) A biosecurity officer may inspect any thing if he or she believes on reasonable grounds that the thing breaches this Act, or any action has been, is being, or is about to be done to the thing in breach of this Act.

(3) Without limiting subsections (1) and (2), a biosecurity officer may —

- (a) open and inspect any biosecurity documentation required under this Act;
- (b) open and inspect incoming and outgoing mail;
- (c) take photographs and electronic or other copies of any document or thing;
- (d) unpack, break open, or otherwise facilitate the inspection of any thing, at the owner of the thing's risk and expense.

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

- (a) must give the officer –
 - (i) all reasonable assistance to enable the officer to exercise the power; and
 - (ii) all information in relation to the exercise of the power that the officer reasonably requires; but
- (b) is not required to give information, or give a response to a question, that may incriminate himself or herself.

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

43 Permits authorise certain inspections

(1) Every permit issued under this Act authorises a biosecurity officer to inspect any place to which the permit relates (other than a private home) as if the officer believed on reasonable grounds that something is being done in or on that place in contravention of this Act.

(2) The power to inspect conferred by subsection (1) is in addition to the powers of inspection conferred by section 42, and does not limit or affect them.

44 Power to seize

(1) A biosecurity officer may, without a Court order or warrant, seize any thing (the seized thing) if —

- (a) the seized thing is produced to the officer or is in plain view during an inspection authorised by this Act or any other Act; and
- (b) the officer believes on reasonable grounds that—
 - (i) an offence against this Act has been committed; and
 - (ii) the seized thing is evidence of the commission of the offence.

(2) An officer of the Customs Department or an employee of the Niue Post Office may, without a Court order or warrant, hold any thing (the seized thing) if —

- (a) it comes into the possession of the officer or employee in the course of his or her employment; and
- (b) the officer or employee believes on reasonable grounds that —
 - (i) an offence against this Act has been committed; and
 - (ii) the seized thing is evidence of the commission of the offence.

(3) A person who seizes or holds a thing under this section must

- (a) take reasonable steps to –
 - (i) tell the owner (or person in possession) of the seized thing the reason for seizing or holding it; and
 - (ii) give the owner or person a receipt for the seized thing; and

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- (b) remove the seized thing to a place of safekeeping; and
- (c) if the thing poses a biosecurity risk, deal with it as necessary to remove or limit that risk.

45 Power to lock and seal stores

A biosecurity officer may lock or seal the stores of any vessel or aircraft while it is in Niue.

46 Taking of samples

(1) A biosecurity officer may take samples or cause samples to be taken from —

- (a) an arriving or departing vessel or aircraft that has restricted items on board;
- (b) any place containing restricted items intended for import or export whether located in Niue or elsewhere;
- (c) any thing subject to a prohibition, restriction, or process under this Act that relates to biosecurity.

(2) A biosecurity officer acting under this section must give the owner or person in possession written notice in a form prescribed by the Director, identifying the sample, the quantity, and the place where the sample is to be analysed.

47 Testing and treatment of restricted items

(1) A biosecurity officer may test, or cause tests to be conducted on, a restricted item in order to decide whether the item meets the import, specifications or export specifications for the item (for example, to test whether an item has been fumigated).

(2) If an incoming item is found to be infected, contaminated, or infested with or by a prohibited pest or disease, the Biosecurity Authority may require the item to be treated whether or not treatment was a requirement for importation.

(3) A biosecurity officer may re consign or destroy an incoming item if —

- (a) the item is required to be treated before arrival or on arrival and the importer fails to have the item treated or treated within a reasonable time; or
- (b) for an item to which subsection (2) applies —
 - (i) the appropriate treatment is not available in Niue; or
 - (ii) the importer chooses not to treat the item or refuses to consent to its treatment by the Authority.

(4) Treatment of an item by the Authority —

- (a) must be the minimum required to meet the import or export specifications or remove or adequately reduce the biosecurity risk posed by the item, as the case may be; and
- (b) may be administered by an appropriately qualified biosecurity officer or by any other suitably qualified person at the request of a biosecurity officer or the importer or exporter.

48 Quarantine of items and other things

(1) A biosecurity officer may quarantine at a quarantine station any of the following:

- (a) a prohibited item before it is re consigned or destroyed;
- (b) a restricted item required to be quarantined;
- (c) an incoming item that is, or is suspected of being, infected, contaminated, or infested with or by a prohibited pest or disease;

(d) any other thing that the biosecurity officer considers on reasonable grounds poses a biosecurity risk.

(2) For the purposes of quarantining any item or thing under this section, a biosecurity officer may —

(a) direct the captain of the vessel or aircraft or the importer to remove the item or thing to the quarantine station; or

(b) arrange for the item or thing to be removed to the quarantine station, in which case the owner or importer is responsible for the costs of removal.

(3) The owner or person in possession of an item or thing removed to a quarantine station must be given written notice of the reasons for the quarantine and the location of the thing.

(4) A person who refuses to remove an item or thing to quarantine as directed under this section commits an offence and is liable on conviction—

(a) in the case of an individual, to a fine not exceeding 100 penalty units:

(b) in any other case, to a fine not exceeding 500 penalty units.

49 Reconsignment

(1) Except as expressly provided by another provision of this Act, this section applies to any item or other thing that a biosecurity officer may order to be reconsigned under this Act.

(2) The power to order reconsignment of any thing includes the power to .reconsign any container, crate, baggage, mail, or other package that carries the thing.

(3) Reconsignment is at the option and cost of the importer but must be carried out within the time specified by a biosecurity officer, which must be reasonable in the circumstances.

(4) If reconsignment is not carried out within 24 hours, a biosecurity officer may destroy the thing and, if relevant, the thing in which it was carried.

(5) Before reconsigning a thing, the Biosecurity Authority must notify the importer in writing of the intention to do so, and the owner may instead consent to the thing being destroyed.

(6) If the importer makes no response within 3 working days to a notice, the importer must be treated as having consented to the destruction of the thing, and the biosecurity officer may destroy the thing in accordance with section 50.

50 Destruction of things

(1) This section applies to any thing that a biosecurity officer may order to be destroyed under this Act.

(2) The power to order destruction includes the power to reconsign any container, crate, baggage, mail, or other package that carries or carried the thing, irrespective of whether the thing is destroyed.

(3) A thing or its packaging must be destroyed in the manner specified by the chief biosecurity officer and the owner of the thing, if known, must —

(a) be given written notice in the prescribed form before its destruction; and

(b) if reasonable in the circumstances, be invited to witness its destruction.

51 Post-mortem examination of animal

(1) If a biosecurity officer examining an animal pursuant to this Act suspects that the animal is diseased and considers a post-mortem examination to be the

only way in the circumstances to establish a diagnosis, the officer may, on the written authority of the chief biosecurity officer, and without the consent of the owner —

- (a) take or cause to be taken the life of the animal; and
- (b) cause a post-mortem examination to be conducted to decide whether the animal is diseased; and
- (c) specimens from the animal for laboratory examination and diagnosis.

(2) The results of the examination and of any laboratory reports resulting from the examination must be provided in writing to the chief biosecurity officer and to the owner of the animal.

52 Powers in relation to individuals

(1) Subsections (2) to (5) apply for the purposes of preventing the outbreak or spread of a notifiable disease within the meaning of section 11 of the Public Health Act 1965.

(2) A biosecurity officer may detain a person on his or her arrival in Niue, at any place that the officer thinks fit, if the officer believes on reasonable grounds that the person is infected with a notifiable disease.

(3) The biosecurity officer must immediately notify the Director of Health of his or her actions and the Director must, as soon as practicable, go to the place where the person is detained.

(4) However, if the Director of Health is not available or is unlikely to be available within 2 hours from the time at which the person is detained, the biosecurity officer must take the person to the hospital for assessment by a medical officer.

(5) To avoid doubt, the biosecurity officer and the Biosecurity Authority have no further responsibility for the person once he or she is delivered to a medical officer or other staff member at the hospital.

(6) A biosecurity officer may detain and question a person if the officer believes on reasonable grounds that the person is in possession or in control of any thing that poses a biosecurity risk to Niue.

(7) Without limiting subsection (6), a biosecurity officer may detain and question a person seeking to enter or leave Niue, or a person importing or exporting an item from Niue.

(8) A biosecurity officer may search a person seeking to enter or leave Niue and, if applicable, his or her baggage, if —

- (a) the officer suspects that the person has on or with him or her an item; and
- (b) arriving in or departing from Niue with that item would constitute an offence under this Act.

(9) A search of a person under this section must be carried out —

- (a) by a person of the same sex as the person searched; or
 - (b) if a person of the same sex is not available to carry out the search, in the presence of another person of the same sex as the person searched.
- (c)

Holding areas, quarantine areas, and quarantine stations

53 Minister may designate certain areas as biosecurity holding areas

(1) The Minister may, by public notice designate —

- (a) any part of the territorial sea or contiguous zone (as defined in the Maritime Zones Act 2013), or any part of the seaport, as an area where vessels are to be held for biosecurity inspections;
- (b) any part of the airport as an area where aircraft are to be held for biosecurity inspections;

- (c) any area of land at or adjacent to the seaport or airport as an area where items and other things are to be held for biosecurity inspections.
- (2) Before acting under this section, the Minister must —
 - (a) consult the Biosecurity Authority on the suitability of the proposed area; and
 - (b) consult the director of the government department responsible for the movement of vessels or aircraft, as the case may be.
- (3) Only the following persons may enter a holding area —
 - (a) the person in charge of the area;
 - (b) a biosecurity officer acting in the course of his or her duty;
 - (c) any other person who has the written permission of the chief biosecurity officer or the person in charge of the area.
- (4) A person commits an offence who —
 - (a) enters a holding area in breach of subsection (3); or
 - (b) damages, interferes with, or otherwise compromises a holding area; or
 - (c) damages, interferes with, or otherwise harms any thing in a holding area; or
 - (d) releases, removes, or attempts to release or remove any thing from a holding area without the permission of a biosecurity officer.
- (5) A person convicted of an offence against subsection (4) is liable—
 - (a) in the case of an individual, to a fine not exceeding 100 penalty units or a term of imprisonment not exceeding 3 months, or both;
 - (b) in any other case, to a fine not exceeding 500 penalty units.

54 Minister may designate quarantine area

- (1) The Minister may, by public notice designate —
 - (a) any part of the territorial sea or contiguous zone (as defined in the Maritime Zones Act 2013), or any part of the seaport, as a quarantine area for the purposes of isolating vessels or any item, or other thing on a vessel;
 - (b) any part of the airport as a quarantine area for the purposes of isolating aircraft or any person, item, or other thing on an aircraft.
- (2) Before acting under this section, the Minister must consult —
 - (a) the Biosecurity Authority on the suitability of the area; and
 - (b) the director of the government department responsible for the movement of vessels or aircraft, as the case may be.
- (3) The chief biosecurity officer may, subject to any requirements in the relevant designation notice, issue instructions to the person in charge of a quarantine area as to the management of the area generally or in relation to a particular vessel or aircraft held or to be held in the area.
- (4) Without limiting subsection (3), the chief biosecurity officer may issue instructions in relation to —
 - (a) the examination, treatment, disposal, or destruction of any thing at the area or during its transit to or from the area; and
 - (b) the period of time for which the thing must remain at the area.

55 Minister may designate land as quarantine station

- (1) The Minister may, by public notice designate any Crown or Niuean land as a quarantine station for the purposes of isolating any item or other thing (including, without limitation, a prohibited pest or disease, animal, plant, animal product, plant product, LMO, prohibited item, restricted item, vehicle, or container).

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- (2) The notice —
 - (a) must specify the thing or things or class or classes of things that may be held at the station; and
 - (b) may provide for any other matter in relation to the or the thing or things to be held at the station.
- (3) Before acting under this section, the Minister must consult—
 - (a) the Biosecurity Authority on the suitability of the land; and
 - (b) the director of any relevant government department; and
 - (c) if the designation relates to Niuean land, the owner of the land.
- (4) The chief biosecurity officer may, subject to any requirements in the relevant designation notice, issue written instructions to the person in charge of a quarantine as to the management of the station generally or in relation to a particular thing or things held or to be held at the station.
- (5) Without limiting subsection (4), the chief biosecurity officer may issue instructions in relation to —
 - (a) the examination, treatment, disposal, or destruction of any thing at the station or during its transit to or from the station; and
 - (b) the period of time for which any thing must remain at the station.
- (6) An owner of Niuean land designated as a quarantine station in accordance with this section is entitled to compensation for use of the land as a quarantine station.

56 Management of quarantine areas and quarantine stations

- (1) Only the following persons may enter a quarantine area or quarantine station —
 - (a) the person in charge of the area or station;
 - (b) a biosecurity officer acting in the course of his or her duty;
 - (c) any other person who has the written permission of the chief biosecurity officer or the person in charge of the area or station.
- (2) The Biosecurity Authority may affix a notice at an area or a station or on any thing held at the area or station, stating —
 - (a) the conditions of entry and exit to the area or station; and
 - (b) the conditions and expected duration of quarantine of the thing held at the area or station; and
 - (c) any other information relating to the area, station, or thing.
- (3) Any thing (other than a vessel or aircraft) may be released from an area or station only if —
 - (a) the chief biosecurity officer issues a quarantine release certificate for it in the prescribed form; and
 - (b) the quarantine fees, if any, for the thing have been paid.
- (4) A quarantine release certificate may be granted —
 - (a) unconditionally; or
 - (b) subject to specified conditions, in which case the owner of the thing must pay a bond in the prescribed amount.
- (5) A person commits an offence who —
 - (a) enters an area or a station in breach of subsection (1); or
 - (b) without lawful authority, removes, damages, or interferes with a notice affixed under subsection (2); or
 - (c) damages, interferes with, or otherwise compromises an area or a station; or

- (d) damages, interferes with, or otherwise harms any thing in an area or a station without the permission of a biosecurity Officer; or
- (e) releases, removes, or attempts to release or remove any thing from an area or a station.

(6) A person convicted of an offence against any of paragraphs (a) and (c) to (e) of subsection (5) is liable —

- (a) in the case of an individual, to a fine not exceeding 400 penalty units or a term of imprisonment not exceeding 12 months, or both;
- (b) in any other case, to a fine not exceeding 2 000 penalty units.

(7) A person convicted of an offence against subsection (5)(b) is liable —

- (a) in the case of an individual, to a fine not exceeding 100 penalty units or a term of imprisonment not exceeding 3 months, or both;
- (b) in any other case, to a fine not exceeding 500 penalty units.

Miscellaneous administrative provisions .

57 Seal

The Biosecurity Authority must have a seal, which must be judicially noticed in all courts and for all purposes.

58 Biosecurity register

(1) The Biosecurity Authority must keep a register containing —

- (a) the information required under any provisions of this Act; and
- (b) any other prescribed information.

(2) The register may be kept in any format that the Director thinks fit, so long as its contents are readily retrievable and are protected against unintended loss and unauthorised alteration.

(3) The register must be made available at the office of the Authority for inspection by the public, free of charge, and for copying, on payment of an administration fee, if any, during normal office hours.

(4) A copy of an entry in the register that is certified by the Director or the chief biosecurity officer to be an accurate copy is *prima facie* evidence of the facts contained in the entry and may be used in Court as evidence of those facts.

59 Biosecurity officer identity card

(1) The Director must —

- (a) issue each biosecurity officer appointed under section 40(1) with an identity card; and
- (b) endorse the primary position identity card of each officer designated under section 40(2) with a reference to the officer's designation as a biosecurity officer under this Act.

(2) If it is practicable in the circumstances, a biosecurity officer must produce his or her identity card —

- (a) on each occasion before the officer acts under this Act; and
- (b) when requested to do so by any person who is affected while the officer acts under this Act.

60 Facilities for biosecurity officers to be provided at airport, seaport, and post office

(1) For the purposes of this Act, the operators of the airport, seaport, and post office must provide at their respective premises, to the satisfaction of the Director (which must not be unreasonably withheld) —

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- (a) an area suitable for use as offices by biosecurity officers stationed or working at the premises;
- (b) adequate space for the display of notices regarding the biosecurity requirements of this Act;
- (c) one or more areas for biosecurity rubbish disposal units (as provided by the Biosecurity Authority);
- (d) an area for interviewing and, if necessary, physically examining an individual;
- (e) any other facilities that the Director requests in writing and that are reasonably necessary to enable a biosecurity officer to perform his or her functions under this Act at the premises.

(2) The Biosecurity Authority must provide all the necessary equipment for the collection and disposal of rubbish from a biosecurity rubbish disposal unit.

(3) A person who intentionally interferes with, damages, or otherwise alters a biosecurity rubbish disposal unit commits an offence and is liable on conviction to a fine not exceeding 20 penalty units.

61 Owners or persons in charge of vessel, aircraft, land, buildings, or premises must provide biosecurity officers with certain protections.

(1) Subsection (2) applies if a biosecurity officer is required to visit or inspect a vessel, an aircraft, land, a building, or premises (the place).

(2) The owner, or person in charge, of the place must —

- (a) if requested to do so, safely transport the officer to the place; and
- (b) provide a safe working environment at the place for the officer to perform the function concerned.

62 Consultants and outsourcing

(1) The Director may, to enable the effective implementation of this Act, —

- (a) hire the services of consultants with specialist biosecurity or other relevant knowledge (for example, to test samples, perform biosecurity risk assessments, or carry out surveys);
- (b) enter into memoranda of understanding or other agreements with other government departments, statutory authorities, official agencies, or private organisations, whether in Niue or elsewhere.

(2) The Director must—

- (a) consult the chief biosecurity officer before acting under subsection (1); and
- (b) comply with any relevant requirements in respect of public service rules relating to procurement, tenders, and similar matters.

63 Compliance agreements

(1) The chief biosecurity officer, on behalf of the Biosecurity Authority, may enter into a written agreement (a compliance agreement) with an importer, an exporter, or any other person in respect of —

- (a) how the person may satisfy any requirement under this Act, including in relation to any item or class of items; and
- (b) the supervision, monitoring, or testing of the person's compliance with satisfying those requirements.

(2) A compliance agreement must set out the circumstances in which the Biosecurity Authority may, by written notice, cancel or vary the agreement or suspend the operation of the agreement for any period.

(3) A biosecurity officer must comply with a compliance agreement in his or her dealings with any item to which the agreement relates, but only to the extent that the officer is satisfied that the terms of the agreement are being observed.

64 Biosecurity approved premises

(1) The owner or occupier of any premises may apply to the Biosecurity Authority for approval —

- (a) of the premises as a place for the inspection, testing, and treatment of restricted items or particular types or classes of restricted items; and
- (b) for specified activities to be carried out in relation to those restricted items at the premises.

(2) An application must be in the prescribed form and be accompanied by the prescribed fee.

(3) In deciding whether to approve premises, the chief biosecurity officer —

- (a) must inspect the premises; and
- (b) must determine whether the premises are adequate to enable the proposed activities to be undertaken efficiently and safely having regard to the nature of the activities to be carried out, the level of biosecurity risk that the activities present, and the ease of accessibility of the premises to biosecurity officers; and
- (c) may take into account any other matter that he or she considers relevant.

(4) An approval —

- (a) may be granted with or without conditions; and
- (b) has effect for a period not exceeding 12 months, but may be renewed and, for that purpose, this section applies as if the renewal application were an application to which subsection (1) applied.

PART 6

OFFENCES, PENALTIES, AND PROCEEDINGS

Offences

65 Offences against biosecurity officers

(1) A person commits an offence who —

- (a) wilfully fails to comply with a request or direction of a biosecurity officer lawfully made by the officer under this Act; or
- (b) knowingly obstructs a biosecurity officer who is performing or exercising his or her functions or powers under this Act; or
- (c) assaults or threatens to assault a biosecurity officer who is performing or exercising his or her functions or powers under this Act; or
- (d) bribes or attempts to bribe a biosecurity officer in relation to the performance or exercise of his or her functions or powers under this Act; or
- (e) in relation to any matter under this Act, knowingly or recklessly —
 - (i) makes a false or misleading declaration or statement; or
 - (ii) issues a false or misleading certificate; or
 - (iii) gives false or misleading information to a biosecurity officer while the officer is performing or exercising his or her functions or powers under this Act.

(2) A person convicted of an offence against subsection (1) is liable —

- (a) in the case of an individual, to a fine not exceeding 100 penalty units or a term of imprisonment not exceeding 12 months, or both;
- (b) in any other case, to a fine not exceeding 500 penalty units..

66 Fraudulent use of official documents

(1) A person to whom a permit or other document is issued under this Act commits an offence if the person —

- (a) forges or unlawfully alters the document; or
- (b) allows any other person to use or attempt to use the document, if the document is not transferable.

(2) A person commits an offence who produces a false or misleading document for the purposes of this Act knowing that document to be false or misleading and intending a biosecurity officer or any other person to rely on it.

(3) A person commits an offence who uses or affixes an official stamp or seal required under this Act without lawful authority and with intent to defraud or deceive any person.

(4) A person convicted of an offence against any of subsections (1) to (3) is liable —

- (a) in the case of an individual, to a fine not exceeding 100 penalty units or a term of imprisonment not exceeding 12 months, or both;
- (b) in any other case, to a fine not exceeding 500 penalty units.

67 Biosecurity officer offences

(1) A biosecurity officer commits an offence if the officer —

- (a) fails without reasonable excuse to perform any of his or her functions in accordance with this Act; or
- (b) without lawful authority, discloses information of a confidential or commercial nature that has come into the officer's possession while performing or exercising his or her functions or powers under this Act; or
- (c) in the course of performing or exercising his or her functions or powers under this Act, harasses, intimidates, or assaults any person; or
- (d) in connection with his or her functions or powers under this Act, solicits or accepts a bribe; or
- (e) knowingly or recklessly makes a false or misleading statement, or issues a false or misleading permit or other document, while purporting to perform or exercise his or her functions or powers under this Act.

(2) A person convicted of an offence against subsection (1) is liable to a fine not exceeding 100 penalty units or a term of imprisonment not exceeding 12 months, or both.

Proceedings

68 Evidence

In any proceedings under this Act —

- (a) a document purporting to have been issued by Cabinet, the Minister, the Director, a biosecurity officer, or any other person for the purposes of this Act is presumed, until the contrary is proved, to have been duly executed or signed by that person;
- (b) a copy of or extract from a document issued by Cabinet, the Minister, the Director, a biosecurity officer, or any other person, and certified by the Director or chief biosecurity officer to be true and correct, is *prima facie* evidence of the matters contained in it and may be used in Court as evidence of those matters;
- (c) a certificate, in the prescribed form, of the results of any test conducted on any thing by the person who conducted the test is *prima facie* evidence of the

matters contained in the certificate and may be used in Court as evidence of those facts;

- (d) a certificate, in the prescribed form, of the analysis of a sample is *prima facie* evidence of the results contained in the certificate and may be used in Court as evidence of those facts, so long as the prescribed procedure in relation to the sample has been substantially followed.

69 Forfeiture of things used to commit offence

(1) The Court may, on convicting a person of an offence under this Act, order the forfeiture to the Crown of any thing used to commit the offence or, if the thing has been sold, that the proceeds of sale be forfeited to the Crown.

(2) The Crown may sell or otherwise dispose of a thing forfeited under subsection (1) and any proceeds from its disposal must be paid into the general funds.

(3) However, if the thing poses a biosecurity risk it must be destroyed as directed by the chief biosecurity officer.

(4) For the purposes of this section, “thing” —

- (a) means any thing directly used in the commission of an offence; and
- (b) includes machinery, equipment, or any vessel, aircraft, or vehicle; but
- (c) does not include land or buildings or other fixtures.

70 Offences committed by body corporate

(1) If a body corporate an offence against this Act, every individual who is a board member or director or otherwise concerned in the management of the body is also liable for the offence unless he or she proves —

- (a) that the offence was committed without his or her consent or connivance; and
- (b) that he or she exercised reasonable diligence to prevent the commission of the offence, having regard to the nature of his or her functions in the body corporate and to all the circumstances.

(2) If a body corporate commits an offence against this Act, every individual who is a board member or director or otherwise concerned in the management of the body may be proceeded against and convicted whether or not the body corporate is proceeded against and whether or not it is convicted.

(3) A body corporate remains liable for any offence committed by it, whether or not proceedings are commenced against any individual who is a board member or director or otherwise concerned in the management of the body,

(4) If a body corporate commits an offence against this Act, any penalty against the body takes precedence over any secured or preferred claim lodged in any action for bankruptcy against the body.

Infringement offences

71 Infringement offences

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

- (a) be proceeded against in the normal manner by the laying of an information against the person; or
- (b) be served with an infringement notice, by the Biosecurity Authority delivering it, or a copy of it, personally to the person.

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

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

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- (b) the amount of the infringement fee; and
- (c) an address at which the infringement fee may be paid; and
- (d) the time within which the infringement fee must be paid; and
- (e) that the person has a right to request a hearing; and
- (f) what will happen if the person does not pay the infringement fee and does not request a hearing; and
- (g) any other prescribed matters.

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

- (a) no further action may be taken against the person; and
- (b) no conviction may be entered against the person for the offence.

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

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

- (a) the reminder notice must be treated as the information for the infringement offence; and
- (b) the Court is deemed to make an order, on the date when the reminder notice is filed, that the defendant pay a fine equal to the amount of the infringement fee together with costs in the prescribed amount, but no conviction is entered against the person.

(6) A person requests a hearing by providing to the Department, within the period specified in the infringement notice or reminder notice, as the case may be —

- (a) a notice, signed by the person, requesting a hearing and accepting or rejecting liability; and
- (b) if accepting liability, the reasons, if any, as to why the Court should impose a lesser fine than the infringement fee for the offence.

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

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

(9)

Warrants

72 Warrants

(1) This section applies if a warrant is required before taking any action under this Act.

(2) A Judge or Commissioner of the Court, or any two Justices of the Peace acting together, may, on application, issue a warrant in the prescribed form if satisfied that there are reasonable grounds for believing that it is necessary for the purpose for which the application has been made.

(3) The application —

- (a) must be made in writing by a constable or the chief biosecurity officer; and
- (b) must be accompanied by a copy of the relevant provisions of this Act.

PART 7

MISCELLANEOUS MATTERS

73 Delegation of functions

(1) The Minister may, in writing, delegate any of his or her functions and powers under this Act to the Director except the following powers —

- (a) the power to designate land or an area as a biosecurity holding area, quarantine area, or quarantine station;
- (b) the power to order a vessel or an aircraft to leave Niue;
- (c) the power to grant an exemption under section 79.

(2) The Director may, in writing, delegate to the chief biosecurity officer —

- (a) any of the Director's functions and powers under this Act; and
- (b) any functions and powers delegated to the Director by the Minister.

(3) The chief biosecurity officer may, in writing, delegate any of his or her functions and powers under this Act to one or more other biosecurity .Officers, except any functions and powers delegated to him or her under subsection (2).

(4) A delegation under this section may be made subject to the restrictions and conditions that the delegator thinks fit, and may be made either generally or in relation to any particular case or class of cases.

(5) A delegation under this section continues in force until revoked by the delegator.

(6) A person to whom a function or power has been delegated (person B) may without confirmation by the person who delegated the function or power (person A) perform or exercise the function or power in the same manner and with the same effect as person A could have performed or exercised it.

(7) No delegation under this section relieves any person of the liability or legal responsibility to perform or ensure the performance of any function or power.

74 Exchange of information

(1) The Biosecurity Authority may communicate to a government department any information that the Authority —

- (a) holds in relation to the performance or exercise of the Authority's functions and powers under this Act; and
- (b) considers may assist that government department in the performance or exercise of that department's functions and powers.

(2) The Authority may, in the performance or exercise of its functions and powers under this Act, use any information communicated to it by a government department.

(3) This section applies irrespective of any other enactment or contract, deed, or other document.

(4) The Authority may impose any conditions in relation to communicating information to a government department under this section, including conditions relating to —

- (a) maintaining the confidentiality of the information (in particular, information that is personal information or commercially sensitive);
- (b) the storing of, use of, or access to the information;
- (c) the copying, returning, or disposing of the information;
- (d) payment of the costs incurred by the Authority in communicating the information.

75 International co-operation

(1) The Minister, with the approval of Cabinet, on behalf of the Government of Niue, may enter into agreements with countries or international organisations in relation to international solutions to biosecurity matters.

(2) The Biosecurity Authority may, pursuant to such agreements, and on behalf of the Government of Niue —

- (a) exchange information with other countries and international organisations;
- (b) contribute to the development of international sanitary and phytosanitary standards.

(3) The Biosecurity Authority, on behalf of the Government of Niue, must use its best endeavours to implement in Niue international standards and requirements relating to biosecurity.

(4) For the purposes of subsection (3), the chief biosecurity officer —

- (a) is designated as the Niuean contact in respect of —
 - (i) the Food and Agriculture Organization of the United Nations (being the organisation that oversees the International Plant Protection Convention); and
 - (ii) the World Organisation for Animal Health; and
 - (iii) the Pacific Plant Protection Organisation; and
 - (iv) any other organisation or body as appointed by Cabinet from time to time;
- (b) must ensure that any notification and reporting requirements of an organisation referred to in paragraph (a) that apply to Niue are met in a timely manner; and
- (c) must ensure, if possible, that any other international obligations lawfully imposed upon Niue or to which Niue has agreed to be bound are met in a timely manner.

76 Import permits

(1) An import permit must be in the prescribed form and may relate to —

- (a) a single item or a class or category of items;
- (b) items from one or more countries of origin;
- (c) items incoming at regular periods throughout a year;
- (d) items incoming at a particular time of day or year.

(2) An application for an import permit must be made to the Biosecurity Authority in the form prescribed by the Director and be accompanied by the prescribed fee.

77 Revocation or variation of import permit

(1) The chief biosecurity officer may, at any time, revoke an import permit or vary its conditions, by written notice to the permit holder, if —

- (a) a change in the biosecurity risk to Niue presented by the items to which the permit relates so requires; or
- (b) the permit holder persistently breaches the requirements of the permit; or
- (c) the chief biosecurity officer is satisfied on reasonable grounds that the permit should be revoked or its conditions varied for any other reason and the reason is specified in the notice.

(2) Import clearance may be refused for an item for which an import permit is required at any time on and from the date on which the permit holder is notified of the revocation of the related permit.

(3) A permit holder whose import permit is revoked must surrender the permit to a biosecurity officer as soon as practicable after the holder is notified of the revocation of the permit.

(4) A permit holder who breaches subsection (3) commits an offence and is liable on conviction —

(a) in the case of an individual, to a fine not exceeding 50 penalty units:

(b) in any other case, to a fine not exceeding 250 penalty units. .

78 Status certificates

(1) The chief biosecurity officer may issue, in the prescribed form —

(a) a certificate stating that a pest or disease specified in the certificate is known to exist in Niue;

(b) a certificate stating that a pest or disease specified in the certificate does not exist in Niue;

(c) a certificate stating the classification, name, or identity by which an animal, plant, animal product, plant product, pest, or disease is . known, or is to be known, in Niue.

(2) A certificate issued under subsection (1) is *prima facie* evidence of the facts contained in it and may be used in Court as evidence of those facts.

79 Exemption from biosecurity requirements

(1) The Minister may, if requested to do so —

(a) allow the importation of any thing prohibited by or under this Act;

(b) allow the exportation of any thing prohibited by or under this Act;

(c) exempt any thing from any restriction or regulation to which it is subject by or under this Act.

(2) A request under subsection (1) must be made in the first instance in writing to the Biosecurity Authority.

(3) The Minister may grant a request, with or without conditions, including a condition that a fee is payable for costs associated with the investigation of the request.

(4) However, the Minister must not grant a request unless he or she has received written advice from the Biosecurity Authority to the effect that the biosecurity risk to Niue as a result of granting the request will not be increased in a material way or can be satisfactorily managed in accordance with any conditions set out in the advice.

80 Biosecurity clearance agents

(1) A person may appoint, in writing, a resident of Niue as the person's agent to carry out one or more of the person's duties under this Act (for example, the duty of a person to be present during a biosecurity inspection of an item imported by the person).

(2) A person who has appointed an agent for the purposes of this provision must notify the Biosecurity Authority, in writing, of the appointment and its terms.

(3) An agent appointed under subsection (1) ceases to be an agent for the purposes of this Act if the Director gives written notice to the person who appointed the agent that the agent's conduct is such that the person's duties under the Act are not being fulfilled in a satisfactory manner by the agent.

(4) A notice under subsection (3) comes into force on the date specified in the notice, which must be no earlier than 28 days after the date the notice is given.

(5) For the purposes of this Act, a biosecurity officer and any other person performing or exercising a function or power may treat an agent as if he or she were the person for whom the agent acts. However, this does not relieve the person who appointed the agent of the legal responsibility to perform or ensure the performance of any duty under this Act that applies to the person.

81 Consequence of non-payment of fee or charge

(1) If a fee or charge payable under this Act in relation to a service is not paid —

- (a) the service may be withheld until the amount is paid; or
- (b) if the service has already been provided, the amount is a debt due to the Crown and recoverable in court.

(2) If a fee or charge payable under this Act in relation to a thing in quarantine is not paid, the thing may be treated as abandoned under section 82 once it is cleared for release from quarantine.

82 Abandoned things

(1) For the purposes of this Act, any thing may be treated as abandoned if —

- (a) the thing is in the possession of the Biosecurity Authority or a biosecurity officer and any fee or charge payable by a person under this Act in respect of the thing is not paid within 30 days after the date on which the fee or charge was required to be paid;
- (b) the thing is held in a biosecurity holding area and is not removed from the area within 5 days after clearance has been granted or a biosecurity officer has granted permission for the thing to be removed;
- (c) the thing is held in a quarantine area or station and, once cleared for release, is not removed from the quarantine area or station within 5 days of its clearance.

(2) A thing that is treated as abandoned in accordance with this section may be destroyed, sold, or otherwise disposed of in any manner that the chief biosecurity officer thinks fit, having regard to any biosecurity risk posed by the thing, and proceeds from its disposal must be paid into the Niue Government Account.

(3) The cost of disposal of an abandoned thing is a debt due to the Crown owed by the owner of the thing.

83 Compensation for loss or damage

(1) Except as expressly provided by another provision of this Act, no compensation is payable for loss or damage as a result of any action lawfully taken under this Act by a biosecurity officer or any other person, unless negligence or malice is proved.

(2) Any compensation payable under this Act must be —

- (a) claimed in accordance with the prescribed procedure; and
- (b) paid in the amount between the Director (on behalf of the Cabinet) and the person concerned or, if no agreement is made, as determined by the Court.

84 Limitation of liability

(1) No person authorised to act under this Act is personally liable for any action taken under it in good faith and without negligence.

(2) A breach of a duty imposed on any person by or under this Act does not give rise to any civil liability, except as expressly provided by or under this Act.

85 Public notification of regulations and notices and service of documents

- (1) Subsection (2) is in addition to any other requirement of this Act.
- (2) Regulations and notices made under this Act must be available to the public —
 - (a) for inspection at the offices of the Department and on its Internet site or the Internet site of the Niue Government; and
 - (b) for purchase at the offices of the Department.
- (3) Unless otherwise provided by another provision of this Act, and subject to subsection (4), any notice or other document required by or under this Act may be given electronically —
 - (a) by a person to the Biosecurity Authority, Minister, Director, or other biosecurity officer;
 - (b) by the Biosecurity Authority, Minister, Director, or other biosecurity officer to a person, if the person has given that person an electronic address for receipt of such notices.
- (4) If service of a notice or other document on a person is to be proved in Court, it must be effected by —
 - (a) personal service on the person; or
 - (b) registered post to the address of the person given to the Biosecurity Authority, Minister, Director, or other biosecurity officer, in which case service is presumed to have been effected 2 days after posting.
- (5) A printed copy of an electronic record of a notice, instruction, or direction given or received by electronic means is prima facie evidence of the notice if the record purports to have been made at the time of sending or receipt.

86 Fines to be paid into Niue Government Account

Fines collected under this Act must be paid into the Niue Government Account.

Regulations

87 Regulations

- (1) Cabinet may make regulations for the effective implementation of this Act, including for the performance of the biosecurity functions of the Biosecurity Authority.
- (2) Without limiting subsection (1), regulations may —
 - (a) prescribe forms, or the information to be included in, or required by, forms prescribed by the Director; and
 - (b) prescribe treatments for vessels and aircraft to be taken before or on their arrival; and
 - (c) prescribe treatments for items to be taken before or on their arrival; and
 - (d) prescribe fees and charges for the services provided by the Authority or any other person under this Act; and
 - (e) prescribe a method for calculating fees and charges referred to in paragraph (d) (for example, an hourly rate); and
 - (f) prescribe the amount of bonds and the manner and circumstances in which they are to be paid, held, and, if applicable, returned; and
 - (g) prescribe the method or procedure for the taking and analysing of samples, the recording and certifying of the results, and the disposal of the samples; and
 - (h) prescribe the procedure for claiming compensation; and
 - (i) prescribe information to be kept in the register; and

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- (j) prescribe the form of any certificate that may be issued under the Act; and
 - (k) provide for the extermination of rats on vessels, and the form of any rat extermination certificate; and
 - (l) regulate the disposal of rubbish and other things in a biosecurity emergency area; and
 - (m) provide for the electronic filing of declarations, applications, and other documents required by this Act; and
 - (n) prescribe the manner and language of markings on containers of incoming and outgoing restricted items; and
 - (o) prescribe the methods of handling, sealing, treating, and disposing of containers holding restricted items; and
 - (p) provide for the placing and use of amnesty bins or other containers for prohibited or restricted items at points of entry and departure; and
 - (q) prescribe additional measures, consistent with this Act, to implement in Nine the standards and requirements relating to the International Plant Protection Convention, the World Organisation for Animal Health, and the Pacific Plant Protection Organisation, and any other organisation; and
 - (r) prescribe the offences created by this Act that constitute infringement offences for the purposes of this Act; and
 - (s) prescribe infringement fees not exceeding 20 penalty units for each infringement offence, which may be different fees for different offences (including different fees for a first, second, or third offence); and
 - (t) prescribe the form of infringement notices and reminder notices; and
 - (u) prescribe any other matter that this Act requires to be prescribed or that is necessary for carrying out or giving effect to this Act.
- (3) Before making regulations under this section, Cabinet must —
- (a) obtain the advice of the Biosecurity Authority; and
 - (b) consult other government departments as appropriate.

88 Biosecurity emergency regulations

- (1) For the purposes of dealing with a biosecurity emergency, Cabinet may make regulations for one or more of the following purposes:
- (a) to confer on the Biosecurity Authority, or specified officers of the Authority, powers necessary to deal with the emergency that are in addition to those already conferred by this Act in relation to biosecurity emergencies;
 - (b) to prescribe the disposal, destruction, treatments and other measures to be adopted in respect of any thing (whether inside or outside an emergency area) that is infected, contaminated, or infested with or by the pest or disease to which the emergency relates or that may have come into contact with any thing that is so infected, contaminated, or infested;
 - (c) to prescribe measures to be taken to prevent the pest or disease to which an emergency relates from spreading, including but not limited to the cleaning of private homes and utensils, removal of stagnant water, and disposal of rubbish;
 - (d) to prohibit or restrict the use of the seaport or airport, or of any facilities at the seaport or airport;
 - (e) to create one or more exclusion zones within an emergency area and control the movement of humans and any thing into, out of, and within such a zone;
 - (f) to prohibit specified activities in an emergency area;
 - (g) to provide for the destruction or treatment of any thing;
 - (h) to require the treatment of land in an emergency area;

- (i) to regulate the use of any area subject to restrictions in relation to the emergency for a specified period after the lifting of the restrictions;
- (j) to make any other arrangements that Cabinet believes, after consulting the Biosecurity Authority, are reasonably necessary to control the biosecurity emergency.

(2) Regulations made under this section may include a penalty for conviction on breach of the regulation to an amount —

- (a) not exceeding 20 penalty units, if the breach is by an individual; and
- (b) not exceeding 100 penalty units, if the breach is by any other person.

(3) Regulations made under this section are revoked (and have no continuing effect) on the day that the declaration in relation to the biosecurity emergency is revoked, unless the declaration is renewed, in which case the regulations are revoked (and have no continuing effect) on the day that the renewed declaration is revoked.

(4) Subsection (3) does not apply to regulations made under subsection (1)(i). Instead, the regulations are revoked on the date specified in the regulations, which must be no later than 30 days after the declaration is revoked.

(5) The Government of Niue is not responsible for the cost of the treatment or destruction of any thing as the result of any person exercising a power conferred by a regulation made under this section.

(6) The owner of any land, premises, vehicle, vessel, or other thing that is used, lost, destroyed or damaged as the result of any taken by a person exercising a power conferred by a regulation made under this section is not entitled to compensation.

89 Regulations may incorporate material by reference

(1) Regulations made under section 87 or 88 may incorporate any of the material described in subsection (2) if the purpose of the regulations (or a purpose of the regulations) is to define terms, prescribe matters, or make other provision in relation to an activity or a thing, including (without limitation) any facility, items, information, practice, premises, process, programme, service, or system.

(2) The material that may be incorporated by reference, whether in whole or in part, is one or more of the following:

- (a) a standard, framework, code of practice, recommended practice, or requirement of an international organisation or a national organisation;
- (b) a standard, framework, code of practice, recommended practice, or requirement prescribed in any country or jurisdiction, or by any group of countries;
- (c) any other written material that deals with technical matters and that can reasonably be regarded as being too large or impractical to include in, or publish as part of, the regulations.

(3) Material incorporated by reference in reliance on this section has legal effect as part of the regulation that incorporates the material.

90 Access to material incorporated by reference

(1) This section applies if regulations incorporating material by reference in reliance on section 89 are made.

(2) The Director must —

- (a) make the material (the incorporated material) available for inspection during working hours free of charge at the offices of the Biosecurity Authority and any Other place that the Director determines is appropriate; and

(b) make copies of the incorporated material available, free of charge, on an Internet site maintained by or on behalf of the Department or the Government of Niue, or both, unless doing so would infringe copyright.

(3) The Director may make copies of the incorporated material available in any other way that he or she considers appropriate in the circumstances.

(4) The Director may comply with subsection (2)(b) by providing a hypertext link from an Internet site maintained by or on behalf of the Department or the Government of Niue to a copy of the incorporated material that is available, free of charge, on an Internet site that is maintained by or on behalf of someone else.

(5) A failure to comply with this section does not invalidate an instrument that incorporates material by reference.

91 Effect of amendments to material incorporated by reference

(1) This section applies if the material incorporated by reference in reliance on section 89 is amended by the originator of the material after the regulations are made.

(2) For the purposes of this section, material is amended if the material or any part of it —

- (a) is amended or replaced; or
- (b) expires or is revoked; or
- (c) otherwise ceases to have effect.

(3) Amendments made by the originator of the material have no legal effect as part of the regulations in which they are incorporated unless they are specifically incorporated by amending or replacing the regulations in accordance with sections 89 and 90.

92 Proof of material incorporated

(1) A copy of material incorporated by reference in regulations in reliance on section 89 must be —

- (a) certified as a correct copy of the material by the Director; and
- (b) retained by the Director.

(2) A certified copy is prima facie evidence of the material incorporated by reference in the regulations and may be used in Court as evidence of that material.

PART 8

REPEALS, SAVINGS, AND CONSEQUENTIAL PROVISIONS

93 Repeals and savings

(1) The Agriculture Quarantine Act 1984 is repealed.

(2) Despite subsection (1), regulations made under that Act continue in force as if made under this Act until revoked, amended, or replaced under this Act, but only to the extent that those regulations are not inconsistent with this Act or any regulations made under this Act.

(3) Despite subsection (1), delegations, directions, notices, agreements, and any other administrative actions or decisions of the Minister, the Director of Agriculture, or any quarantine officer or inspector issued or made under the Agriculture Quarantine Act 1984 continue to have effect as if issued or made under this Act until revoked, amended, or replaced under this Act, but only to the extent that they are not inconsistent with this Act or any regulations made under this Act.

(4) Despite subsection (1), import permits issued under the Agriculture Quarantine Act 1984 remain in force until they expire in accordance with their terms, or until expressly revoked under this Act.

(5) Any bond, agreement, instrument, or arrangement relating to the biosecurity functions of the Government, to which the Government is a party and that is in effect at the commencement of this Act, continues to have effect after that date and is enforceable by or against the Government as if it had been entered into under this Act.

(6) An item destined for Niue that has left the country of origin but has not arrived in Niue at the date of commencement of this Act requires clearance under this Act before it can be imported.

94 Continuation of employment arrangements

All employees of the Department who were appointed before the commencement of this Act are deemed to have been appointed under section 37, 38, 39, or 40 (as applicable) and, subject to this Act, continue in office on the terms and conditions of their original appointment.

Consequential amendments

95 References in other enactments

(1) A reference in another Act to the Agricultural Quarantine Act 1984, or any regulations made under it, is, to the extent possible, to be read as a reference to this Act or to regulations or specifications made under it.

(2) A reference in another Act to a quarantine officer is, to the extent possible, to be read as a reference to a biosecurity officer exercising equivalent functions under this Act.

INCOME TAX AMENDMENT ACT 2016

2016/338 – 24 December 2016

An Act to amend the Income Tax Act 1961 to provide for regulations to give effect to agreements or arrangements relating to Niue and any other country or territory about the exchange of tax information.

The Assembly enacts as follows –

1 Title

This Act is the Income Tax Amendment Act 2016.

2 Commencement

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

3 Principal Act amended

This Act amends the Income Tax Act 1961.

4 Section 152 (Regulations) amended

(1) Section 152 is amended by adding “; and” and by adding the following paragraph after paragraph (c) –

“(d) giving effect to, or enabling effect to be given to, any agreement or arrangement entered into by Cabinet for and on behalf of the Government of Niue for the exchange of information that relates to tax (including the automatic exchange of that information) in relation to Niue and any other country or territory.”

DEPARTURE TAX AMENDMENT ACT 2017

2017/339 – 29 March 2017

1	Title	4	Section 2 amended (Interpretation)
2	Commencement	5	Section 3 amended (Departure tax)
3	Principal Act amended	6	New sections 4-5A substituted

An Act to amend the Departure Tax Act 1996 to require carriers who provide international travel to collect the departure tax.

The Assembly enacts as follows –

- 1 Title**
This Act is the Departure Tax Amendment Act 2017.
- 2 Commencement**
This Act comes into force on the day after the date on which this Act becomes law in accordance with Article 34 of the Constitution.
- 3 Principal Act amended**
This Act amends the Departure Tax Act 1996.
- 4 Section 2 amended (Interpretation)**
Section 2 is amended by inserting the following definition in its appropriate alphabetical order –
“carrier means a person who provides international travel, and includes an agent of the carrier”.
- 5 Section 3 amended (Departure tax)**
Section 3(1) is amended by inserting “at the prescribed rate” after “departure tax”.
- 6 New sections 4 to 5A substituted**
(1) Sections 4 and 5 are repealed and the following sections are substituted –
 - “4 Collection of departure tax**
 - “(1)** A carrier must collect the proper amount of departure tax from a person liable to pay the tax before the person departs Niue.
 - “(2)** A person liable to pay departure tax must not depart Niue without first paying the tax.

- "(3) A carrier must account to the Customs Department of Treasury for the departure tax collected and pay the amount collected to that Department.
- "(4) A carrier must keep proper records showing –
- "(a) the amount and date the departure tax was collected; and
 - "(b) the person from whom the departure tax was collected; and
 - "(c) the international travel for which the departure tax was collected; and
 - "(d) any refund of departure tax.
- "(5) A carrier must keep the records required by subsection (4) for at least 7 years from the date of collection.
- "(6) A carrier must, not later than the 20th day of each month, pay to the Customs Department of Treasury without any deduction the departure tax collected for international travel completed in the immediately preceding month.
- "5 Departure tax to remain property of Crown**
- "(1) The departure tax that is required to be collected under section 4 constitutes a debt due to the Crown payable by the carrier.
- "(2) Departure tax payable in accordance with section 4 and any penalties imposed under section 5A are recoverable at the suit of the Crown in a court of competent jurisdiction.
- "(3) Until the departure tax collected is paid to the Customs Department of Treasury, the tax –
- "(a) is deemed to be held in trust for the Crown; and
 - "(b) is a charge on the property of the carrier; and
 - "(c) is not property of the carrier that is liable to execution; and
 - "(d) in the event of the carrier's bankruptcy, liquidation, or an assignment for the benefit of the carrier's creditors –
 - "(i) does not form part of the carrier's estate in bankruptcy, liquidation, or assignment; and
 - "(ii) ranks in priority after preferential claims for wages and in priority to all other claims.
- "5A Failure of carrier to pay**
- If a carrier fails to pay departure tax on the due date in accordance with section 4(6), there must be added to the amount due and owing a penalty of 2% for each month or part of a month that the amount remains outstanding."

APPROPRIATION (ANNUAL) ACT 2017

2017/340 – 1 September 2017

An Act to appropriate certain sums of money out of the Niue Assembly account to the services for the year ending 30th of June 2018 and to appropriate the supplies granted in that year.

1 Title

This is the Appropriation (Annual) Act 2017.

2 Commencement

(1) This Act shall relate to the financial year ending on the 30th day of June 2018 (hereinafter referred to as “the financial year”).

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

3 Grant and Appropriation of Expenditure

There may be issued and supplied from the Niue Assembly Account towards making good the supplies granted for the services of the financial year:

(a) for Recurrent Operational Expenditure, Capital Projects and Investment and Development Projects a sum of which does not exceed \$29,326,000 in total;
and

(b) for development partner Investment and Development projects a sum which does not exceed \$9,670,000 in total

particulars of which are set out under the relevant headings in the Schedules hereto.

Schedule A

TABLE 1: 2017-18 BUDGET SUMMARY

Total Niue Recurrent Revenues	-27,248	-24,644	-24,078	-21,322	-28,157
Total Niue Recurrent Expenses	27,058	24,548	23,740	23,006	28,414
Total Niue Funded Capital	51	0	100	0	100
Niue Funded I&D	138	0	238	0	812
Donor I&D Revenue	-11,500	0	-9,085	0	-9,670
Donor I&D Expenditure	11,500	0	9,085	0	9,670

Note: Numbers presented in tables within this document show revenues with a -ve number, and expenses with a +ve number.

Appropriation 2017

Schedule B

CENTRAL AGENCIES						
	Premiers Department	2,298,000	2,319,255	2,223,000	2,253,337	2,348,000
	Crown Law	292,000	407,011	342,000	352,044	399,000
	Niue Public Service Commission and Secretariat	1,273,000	1,242,799	1,262,000	1,199,888	1,326,000
	Finance and Planning	1,456,000	1,896,998	1,483,000	1,956,876	5,494,000
	Project Management Coordination Unit	327,000	62,661	327,000	212,694	287,000
	Police	551,000	548,350	615,000	451,795	610,000
MINISTRY OF SOCIAL SERVICES						
	Education Department	2,485,000	2,654,069	2,616,000	2,583,916	2,721,000
	Health Department	2,138,000	1,947,728	2,183,000	2,053,244	2,290,000
	Justice Department (Inc Com Affairs)	3,684,000	3,671,388	3,859,000	3,872,738	4,033,000
	Taoga Niue	237,000	157,219	270,000	196,213	272,000
MINISTRY OF NATURAL RESOURCE						
	DAFF	952,000	748,611	963,000	804,396	899,000
	Environment Department	263,000	280,672	335,000	266,781	332,000
	Met Office	198,000	210,809	221,000	145,734	202,000
MINISTRY OF INFRASTRUCTURE						
	Utilities	797,000	672,675	955,000	664,178	862,000
	Transport	1,354,000	1,101,659	1,500,000	1,209,322	1,497,000
	Civil Aviation	263,000	230,016	0	0	0
	Telecom Niue	1,555,000	0	0	0	0
COMMERCIAL AND TRADING						
	Niue Tourism Authority	360,000	369,983	377,000	434,640	477,000
	Bulk Fuel	4,794,000	4,069,413	4,209,000	4,688,755	4,365,000
CENTRAL AGENCIES						
	Premiers Department	-2,000	-3,819	-3,000	-2,556	-2,000
	Crown Law	0	-283	-5,000	-274	0
	Niue Public Service Commission and Secretariat	0	5	0	0	0
	Finance and Planning	-14,611,000	-15,057,039	-16,156,000	-13,470,426	-19,390,000
	Project Management Coordination Unit	-358,000	0	-358,000	0	-301,000
	Police	-191,000	-141,983	-191,000	-112,350	-183,000
MINISTRY OF SOCIAL SERVICES						
	Education Department	-4,000	-3,262	-5,000	-2,295	-5,000
	Health Department	-40,000	-35,943	-40,000	-50,703	-45,000
	Justice Department (Inc Com Affairs)	-80,000	-83,705	-80,000	-98,468	-105,000
	Taoga Niue	-6,000	-14,430	-6,000	-4,522	-7,000
MINISTRY OF NATURAL RESOURCE						
	DAFF	-1,094,000	-1,149,347	-1,049,000	-1,837,375	-1,198,000
	Environment Department	-10,000	-4,177	-10,000	-927	-1,000
	Met Office	-2,000	-1,042	-2,000	-708	-2,000
MINISTRY OF INFRASTRUCTURE						
	Utilities	-4,000	-8,724	-39,000	-2,632	-38,000
	Transport	-1,397,000	-804,357	-1,481,000	-775,821	-1,632,000
	Civil Aviation	0	0	0	0	0
	Telecom Niue	-1,877,000	0	0	0	0
COMMERCIAL AND TRADING						
	Niue Tourism Authority	-48,000	-45,643	-48,000	-29,315	-48,000
	Bulk Fuel	-5,239,000	-5,316,881	-4,605,000	-4,973,675	-5,200,000

Niue Legislation Supplement 2016-2019

Schedule C

GOVERNMENT OF NIUE 2017-18 BUDGET

TREASURY	Finance	1. Fin. Stability	\$935,000	\$1,420,712	\$911,000	\$1,549,033	\$4,854,000
TREASURY	Taxation	1. Fin. Stability	\$0	\$79,935	\$0	\$0	\$0
PREMIERS	Corporate Services	2. Governance	\$328,000	\$330,442	\$331,000	\$286,210	\$317,000
PREMIERS	Cabinet Services	2. Governance	\$491,000	\$659,446	\$553,000	\$595,905	\$616,000
PREMIERS	Legislature	2. Governance	\$744,000	\$714,050	\$752,000	\$807,538	\$809,000
PREMIERS	Niue High Commission	2. Governance	\$199,000	\$156,771	\$199,000	\$204,036	\$227,000
PREMIERS	External Affairs	2. Governance	\$536,000	\$458,547	\$368,000	\$359,649	\$379,000
CROWN LAW	Crown Law Office	2. Governance	\$292,000	\$407,011	\$342,000	\$352,044	\$396,000
NPSC and Secretariat	Corporate Services/HRMIS	2. Governance	\$885,000	\$854,718	\$868,000	\$767,012	\$864,000
NPSC and Secretariat	Strategic Human Resource	2. Governance	\$70,000	\$94,817	\$89,000	\$103,642	\$70,000
NPSC and Secretariat	Manpower Supplementation	2. Governance	\$105,000	\$115,317	\$105,000	\$119,414	\$115,000
TREASURY	Customs (fly Customs/Taxatic	2. Governance	\$232,000	\$211,286	\$281,000	\$226,414	\$341,000
DAFF	Quarantine	2. Governance	\$194,000	\$83,932	\$139,000	\$107,890	\$126,000
JUSTICE	Administration & Registry	2. Governance	\$188,000	\$151,700	\$166,000	\$145,288	\$184,000
JUSTICE	Civil/Criminal Court	2. Governance	\$88,000	\$56,794	\$67,000	\$54,360	\$70,000
JUSTICE	Land Court	2. Governance	\$99,000	\$97,479	\$96,000	\$94,796	\$105,000
POLICE	Administration	2. Governance	\$470,000	\$493,519	\$489,000	\$452,583	\$510,000
POLICE	Prison	2. Governance	\$33,000	\$19,980	\$32,000	\$19,259	\$35,000
POLICE	Disaster Management	2. Governance	\$48,000	\$36,871	\$84,000	\$20,147	\$65,000
PMCU	Project Management Unit	2. Governance	\$327,000	\$62,681	\$327,000	\$212,604	\$287,000
TREASURY	Statistics and Immigration	2. Governance	\$142,000	\$112,801	\$142,000	\$104,850	\$151,000
TREASURY	Economic Development	3. Econ. Dev.	\$147,000	\$72,264	\$148,000	\$76,579	\$148,000
TRANSPORT	Civil Aviation	3. Econ. Dev.	\$263,000	\$230,018	\$302,000	\$170,928	\$272,000
TRANSPORT	Rescue Fire Services	3. Econ. Dev.	\$188,000	\$159,036	\$249,000	\$194,576	\$258,000
NPSC and Secretariat	Employment Relations	3. Econ. Dev.	\$55,000	\$48,373	\$66,000	\$43,948	\$61,000
DAFF	Administration	3. Econ. Dev.	\$311,000	\$364,932	\$314,000	\$373,793	\$319,000
DAFF	Fisheries	3. Econ. Dev.	\$151,000	\$99,686	\$141,000	\$107,750	\$146,000
DAFF	Crop Research & Animal Heal	3. Econ. Dev.	\$176,000	\$74,842	\$193,000	\$109,232	\$165,000
DAFF	Crop Extension Services	3. Econ. Dev.	\$89,000	\$75,667	\$100,000	\$67,022	\$89,000
JUSTICE	Land Management	3. Econ. Dev.	\$335,000	\$216,082	\$319,000	\$220,693	\$275,000
UTILITIES	Administration	3. Econ. Dev.	\$162,000	\$93,327	\$161,000	\$86,100	\$194,000
UTILITIES	Building & Engineering	3. Econ. Dev.	\$121,000	\$80,815	\$285,000	\$96,674	\$180,000
TRANSPORT	Maritime	3. Econ. Dev.	\$29,000	\$0	\$36,000	\$16,057	\$42,000
UTILITIES	Water Supply	3. Econ. Dev.	\$514,000	\$498,133	\$499,000	\$479,404	\$488,000
TOURISM	Tourism Authority	3. Econ. Dev.	\$360,000	\$369,983	\$377,000	\$434,640	\$477,000
NPSC and Secretariat	Human Resource Developme	4. Social	\$158,000	\$129,574	\$154,000	\$165,873	\$216,000
COMMUNITY AFFAIRS	Administration	4. Social	\$387,000	\$380,305	\$389,000	\$249,908	\$368,000
COMMUNITY AFFAIRS	Community Devel. & Social W	4. Social	\$2,807,000	\$2,789,028	\$2,802,000	\$3,107,702	\$3,031,000
EDUCATION	National Library	4. Social	\$75,000	\$28,211	\$74,000	\$49,804	\$52,000
EDUCATION	Administration	4. Social	\$669,000	\$706,307	\$680,000	\$724,638	\$756,000
EDUCATION	Niue Primary School	4. Social	\$770,000	\$756,297	\$695,000	\$684,790	\$727,000
EDUCATION	Niue High School	4. Social	\$971,000	\$1,163,255	\$1,167,000	\$1,124,883	\$1,188,000
HEALTH	Administration	4. Social	\$545,000	\$452,032	\$541,000	\$485,859	\$505,000
HEALTH	Medical	4. Social	\$891,000	\$613,616	\$717,000	\$627,529	\$684,000
HEALTH	Nursing	4. Social	\$401,000	\$406,982	\$554,000	\$447,320	\$508,000
HEALTH	Public Health	4. Social	\$320,000	\$297,548	\$177,000	\$308,022	\$389,000
HEALTH	Dental	4. Social	\$181,000	\$174,572	\$184,000	\$184,515	\$207,000
DAFF	Forestry	5. Environ.	\$81,000	\$49,571	\$78,000	\$38,719	\$54,000
ENVIRONMENT	Administration	5. Environ.	\$263,000	\$280,672	\$335,000	\$268,781	\$332,000
MET SERVICE	Administration	5. Environ.	\$198,000	\$210,808	\$221,000	\$145,734	\$202,000
TAOQA NIUE	Administration	6. Taqqa Niue	\$237,000	\$157,219	\$270,000	\$198,213	\$272,000
BULK FUEL	Bulk Fuel	3. Econ. Dev.	\$4,794,000	\$4,089,413	\$4,209,000	\$4,688,755	\$4,365,000
UTILITIES	Energy Administration	2. Governance	\$189,000	\$160,232	\$0	\$0	\$0
UTILITIES	Production	3. Econ. Dev.	\$1,488,000	\$1,697,930	\$0	\$0	\$0
UTILITIES	Reticulation	3. Econ. Dev.	\$387,000	\$344,607	\$0	\$0	\$0
TRANSPORT	Transport Administration	3. Econ. Dev.	\$142,000	\$89,106	\$149,000	\$113,178	\$120,000
TRANSPORT	Outside Services	3. Econ. Dev.	\$470,000	\$423,067	\$520,000	\$526,064	\$597,000
TRANSPORT	Heavy Plant	3. Econ. Dev.	\$262,000	\$190,434	\$242,000	\$188,520	\$208,000
TELECOM	Administration	3. Econ. Dev.	\$930,000	\$0	\$0	\$0	\$0
TELECOM	Technical (Lines)	3. Econ. Dev.	\$186,000	\$0	\$0	\$0	\$0
TELECOM	Technical (Electronics)	3. Econ. Dev.	\$253,000	\$0	\$0	\$0	\$0
TELECOM	Information Systems Office	3. Econ. Dev.	\$98,000	\$0	\$0	\$0	\$0
TELECOM	Post Office	3. Econ. Dev.	\$108,000	\$0	\$0	\$0	\$0

Appropriation 2017

Schedule C

GOVERNMENT OF NIUE 2017-18 BUDGET

TREASURY	Finance	1. Fin. Stability	-\$8,650,000	-\$8,172,391	-\$8,700,000	\$7,824,985	-\$12,110,000
TREASURY	Taxation	1. Fin. Stability	-\$4,607,000	-\$5,199,142	-\$5,942,000	-\$5,314,637	-\$6,107,000
PREMIERS	Corporate Services	2. Governance	\$0	-\$1,200	-\$1,000	-\$178	\$0
PREMIERS	Cabinet Services	2. Governance	\$0	\$0	\$0	\$0	\$0
PREMIERS	Legislature	2. Governance	\$0	\$0	\$0	\$0	\$0
CROWN LAW	Crown Law Office	2. Governance	\$0	-\$283	-\$5,000	-\$274	\$0
PREMIERS	Niue High Commission	2. Governance	-\$2,000	-\$2,619	-\$2,000	-\$2,000	-\$2,000
PREMIERS	External Affairs	2. Governance	\$0	\$0	\$0	-\$378	\$0
NPSC and Secretariat	Corporate Services/HRMIS	2. Governance	\$0	\$5	\$0	\$0	\$0
NPSC and Secretariat	Strategic Human Resource	2. Governance	\$0	\$0	\$0	\$0	\$0
NPSC and Secretariat	Manpower Supplementation	2. Governance	\$0	\$0	\$0	\$0	\$0
TREASURY	Customs (fly Customs/ Taxatic	2. Governance	-\$1,422,000	-\$665,023	-\$1,482,000	-\$503,253	-\$1,141,000
DAFF	Quarantine	2. Governance	-\$27,000	-\$21,302	-\$27,000	-\$19,507	-\$22,000
JUSTICE	Administration & Registry	2. Governance	-\$15,000	-\$17,922	-\$15,000	-\$15,021	-\$15,000
JUSTICE	Civil/Criminal Court	2. Governance	-\$10,000	-\$3,122	-\$10,000	-\$5,105	-\$10,000
JUSTICE	Land Court	2. Governance	-\$12,000	-\$13,360	-\$12,000	-\$8,888	-\$15,000
POLICE	Administration	2. Governance	-\$191,000	-\$141,983	-\$191,000	-\$112,350	-\$183,000
POLICE	Prison	2. Governance	\$0	\$0	\$0	\$0	\$0
PMCU	Project Management Unit	2. Governance	-\$358,000	\$0	-\$358,000	\$0	-\$301,000
TREASURY	Statistics and Immigration	2. Governance	-\$32,000	\$0	-\$32,000	-\$27,651	-\$32,000
TREASURY	Economic Development	3. Econ. Dev.	\$0	-\$482	\$0	\$0	\$0
TRANSPORT	Civil Aviation	3. Econ. Dev.	-\$371,000	-\$439,788	-\$408,000	-\$300,421	-\$508,000
TRANSPORT	Fire and Rescue	3. Econ. Dev.	-\$5,000	-\$188	-\$5,000	-\$3,386	-\$12,000
DAFF	Administration	3. Econ. Dev.	-\$3,000	-\$2,484	-\$3,000	-\$9,714	-\$14,000
DAFF	Fisheries	3. Econ. Dev.	-\$1,020,000	-\$1,115,142	-\$975,000	-\$1,805,845	-\$1,130,000
DAFF	Crop Research & Animal Heal	3. Econ. Dev.	-\$6,000	-\$5,003	-\$8,000	-\$2,442	-\$5,000
DAFF	Crop Extension Services	3. Econ. Dev.	-\$31,000	-\$5,204	-\$31,000	-\$866	-\$24,000
JUSTICE	Land Management	3. Econ. Dev.	-\$43,000	-\$40,301	-\$43,000	-\$69,454	-\$65,000
UTILITIES	Administration	3. Econ. Dev.	\$0	\$0	-\$30,000	\$0	-\$30,000
UTILITIES	Building & Engineering	3. Econ. Dev.	-\$2,000	-\$939	-\$2,000	-\$1,836	-\$2,000
TRANSPORT	Maritime	3. Econ. Dev.	-\$200,000	-\$2,421	-\$300,000	-\$275,673	-\$400,000
UTILITIES	Water Supply	3. Econ. Dev.	-\$7,000	-\$7,785	-\$7,000	-\$855	-\$6,000
TOURISM	Tourism Authority	3. Econ. Dev.	-\$48,000	-\$45,643	-\$48,000	-\$29,315	-\$48,000
NPSC and Secretariat	NTDU/Human Resources	4. Social	\$0	\$0	\$0	\$0	\$0
COMMUNITY AFFAIRS	Administration	4. Social	\$0	\$0	\$0	\$0	\$0
COMMUNITY AFFAIRS	Community Devel. & Social W	4. Social	\$0	\$0	\$0	\$0	\$0
EDUCATION	National Library	4. Social	-\$1,000	\$0	-\$1,000	\$0	-\$1,000
EDUCATION	Administration	4. Social	-\$1,000	-\$537	-\$1,000	-\$540	-\$1,000
EDUCATION	Niue Primary School	4. Social	-\$1,000	-\$350	-\$1,000	-\$533	-\$1,000
EDUCATION	Niue High School	4. Social	-\$1,000	-\$2,378	-\$2,000	-\$1,222	-\$2,000
HEALTH	Administration	4. Social	-\$40,000	-\$28,084	-\$40,000	-\$34,258	-\$45,000
HEALTH	Medical	4. Social	\$0	-\$5,360	\$0	-\$13,742	\$0
HEALTH	Nursing	4. Social	\$0	-\$20	\$0	\$0	\$0
HEALTH	Public Health	4. Social	\$0	-\$1,474	\$0	-\$684	\$0
HEALTH	Dental	4. Social	\$0	-\$1,005	\$0	-\$2,020	\$0
DAFF	Forestry	5. Environ.	-\$7,000	-\$233	-\$7,000	\$0	-\$3,000
ENVIRONMENT	Administration	6. Environ.	-\$10,000	-\$4,177	-\$10,000	-\$927	-\$1,000
MET SERVICE	Administration	5. Environ.	-\$2,000	-\$1,042	-\$2,000	-\$708	-\$2,000
TAOGA NIUE	Administration	6. Taoga Niue	-\$6,000	-\$14,430	-\$6,000	-\$4,522	-\$7,000
BULK FUEL	Bulk Fuel	3. Econ. Dev.	-\$5,238,000	-\$5,316,881	-\$4,805,000	-\$4,973,675	-\$5,200,000
UTILITIES	Production	3. Econ. Dev.	-\$2,205,000	-\$1,038,543	\$0	\$0	\$0
UTILITIES	Reticulation	3. Econ. Dev.	-\$78,000	-\$34,881	\$0	\$0	\$0
TRANSPORT	Outside Services	3. Econ. Dev.	-\$811,000	-\$381,960	-\$758,000	-\$196,341	-\$700,000
TRANSPORT	Heavy Plant	3. Econ. Dev.	-\$10,000	\$0	-\$12,000	\$0	-\$12,000
TELECOM	Administration	3. Econ. Dev.	-\$1,658,000	\$0	\$0	\$0	\$0
TELECOM	Technical (Lines)	3. Econ. Dev.	\$0	\$0	\$0	\$0	\$0
TELECOM	Technical (Electronics)	3. Econ. Dev.	\$0	\$0	\$0	\$0	\$0
TELECOM	Information Systems Office	3. Econ. Dev.	-\$82,000	\$0	\$0	\$0	\$0
TELECOM	Post Office	3. Econ. Dev.	-\$129,000	\$0	\$0	\$0	\$0
RECURRENT OPERATIONAL SURPLUS/(DEFICIT)			\$190,000	-\$79,987	\$338,000	-\$1,984,447	-\$257,000
GON RECURRENT CAPITAL EXPENDITURE			-\$51,000	\$0	-\$100,000	\$0	-\$100,000
GON RECURRENT INVESTMENT & DEVELOPMENT PROJECTS			-\$138,000	\$0	-\$238,000	\$0	-\$812,000

CIVIL LIST AMENDMENT ACT 2017

2017/341 – 4 October 2017

- | | | | |
|---|-----------------------|---|-------------------------|
| 1 | Title | 4 | Section 12 amended |
| 2 | Commencement | 5 | The Schedule is amended |
| 3 | Principal Act amended | | |
-

An Act to prescribe pursuant to article 25(2) of the Constitution the remuneration and other entitlements of the Premier, Ministers, Members of Parliament assisting a Minister, Members of the Assembly and the Speaker

The Assembly enacts as follows—

- 1 Title**
This is the Civil List Amendment Act 2017.
- 2 Commencement**
This Act comes into force on the day after the date on which this Act becomes law in accordance with Article 34 of the Constitution.
- 3 Principal Act amended**
This Act amends the Civil List Act 2016.
- 4 Section 12 amended**
Section 12 of the principal Act is amended by repealing section 12 and substituting the following section:

“12 Members assisting a Minister

- (1) The Premier may, as the Premier sees fit, at any time appoint a member to assist a Minister.
- (2) No more than four members may at any time hold appointment under subsection (1).
- (3) Every appointment of a member under subsection (1) is effective from the date of notification of the appointment, and ends on the date

of notification of termination, by the Premier in writing to the Financial Secretary.

(4) Public notice shall be given of every appointment and termination of appointment under this section.”

5 The Schedule is amended

The Schedule of the principal Act is amended by repealing the Schedule and substituting the following Schedule:

SCHEDULE

PART 1 - REMUNERATION

Office	Rate of Remuneration - Annual
Premier	\$78,582.00 - \$80,055.00
Minister	\$53,406.00 - \$56,009.00
Member Assisting the Minister	\$41,162.00 - \$44,315.00
Member	\$27,409.00 - \$31,179.00
Speaker	\$32,175.00 - \$35,731.00

PART 2 - ALLOWANCES

Type of allowance	Amount of allowance
Premier’s Entertainment and Residence allowance payable to the Premier annually, to defray costs incurred by the Premier in relation to official duties, representation at official functions and to defray the cost of maintaining the Premiers residence.	\$10,000 per annum
Ministerial allowance payable to a Minister annually, to defray the costs incurred in relation to official duties and representation at official functions	\$8,000 per annum
Member Assisting the Minister Allowance payable annually to Member of Parliament who is assisting the Minister with the duties of the Minister, to defray the cost incurred in relation to official duties and representation at official functions	\$6,000 per annum

Civil List Amendment

<p>Speaker's Allowance payable to the Speaker to defray costs incurred in relation to official duties and representation at functions</p>	\$6,000 per annum
<p>Member of Parliament Allowance payable to a Member of Parliament to defray the costs incurred in relation to official duties and representation at official functions</p>	\$4,000 per annum
<p>Acting Premier's allowance Payable to a Minister when acting as Premier</p>	\$100 per day in addition to remuneration as a Minister
<p>Temporary Minister's allowance Payable to a Member when acting as a Minister</p>	\$70 a day in addition to remuneration as Member
<p>Clothing allowance</p>	<p>Premier \$5,000 payable every 3 years Minister \$4,000 payable every 3 years Member \$4,000 payable every 3 years Speaker \$4,000 payable every 3 years</p> <p>This allowance is payable on the person first becoming a member of the Assembly and may be then subsequently payable every 3 years after the payment of any previous clothing allowance if the member is re-elected to the Niue Legislative Assembly</p>
<p>Overseas travel allowance Payable to the Premier, a Minister, a Member, and the Speaker in connection with the person's official duties - To cover accommodation, meals and incidental expenses necessarily incurred in carrying out such duties.</p>	<p>Premier \$500 daily allowance Minister \$350 daily allowance Speaker \$200 daily allowance Member \$200 daily allowance</p> <p>The allowance may differ in respect of the office in the Assembly held by the person travelling and by the country or countries to be visited by the person. The allowance payable is to be adjusted by an equal amount to any allowance that is to be paid by a person other than the Government of Niue to cover accommodation, meals and incidental expenses.</p>
<p>Overseas entertainment allowance Payable to the Premier, a Minister,</p>	<p>Premier \$450 per trip Minister \$300 per trip</p>

<p>a Member of Parliament assisting the Minister, Members of Parliament and the Speaker in connection with the person's official duties.</p>	<table border="0"> <tr> <td>Member Assisting the Minister</td> <td>\$300 per trip</td> </tr> <tr> <td>Member</td> <td>\$250 per trip</td> </tr> <tr> <td>Speaker</td> <td>\$250 per trip</td> </tr> </table> <p>The allowance may differ in respect of the office in the Assembly held by the person travelling and by the country or countries to be visited by the person.</p>	Member Assisting the Minister	\$300 per trip	Member	\$250 per trip	Speaker	\$250 per trip
Member Assisting the Minister	\$300 per trip						
Member	\$250 per trip						
Speaker	\$250 per trip						
<p>Select Committee Member's Allowance Payable to a Select Committee Member who attends Select Committee meetings</p>	<p>For meetings outside of normal working hours \$70 per day. For meetings between 8.30am-12.30pm during normal working hours \$50 per day. For meetings during normal working hours between 8.30am and 4.00pm and beyond, \$100 per meeting</p>						

BIOLOGICAL WEAPONS CONVENTION ACT 2018

2018/342 – 16 May 2018

1	Title	8	Designation of inspectors
2	Commencement	9	Entry and inspection
	PART 1	10	Warrant to enter dwelling-house
	<i>Preliminary matters</i>	11	Search and seizure
3	Interpretation	12	Obstruction and false statements
4	Act binds the Government	13	Directions requiring disposal of dangerous substances
5	Application	14	Penalties
	PART 2	15	Liability of directors and others
	<i>Implementation of the Convention</i>		PART 3
6	Prohibitions		<i>Miscellaneous</i>
	<i>Enforcement</i>	16	Regulations
7	National Authority		SCHEDULE

Convention on the Prohibition of the Development, Production, and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction.

An Act to Implement in the law of Niue the Convention on the Prohibition of the Development, Production, and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction

- 1 Title**
This Act is the Biological Weapons Convention 2018.
- 2 Commencement**
This Act comes into force on the day after the date on which it becomes law in accordance with Article 34 of the Constitution.
- PART 1**
Preliminary matters
- 3 Interpretation**
(1) In this Act, unless the context otherwise requires –
“Convention” means the 1972 Convention on the Prohibition of the Development, Production, and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction [set out in the Schedule];
“Minister” means the Minister for External Affairs;
“person” or any term descriptive of a person includes an actual person, a corporation sole, a body corporate, and an unincorporated body.
(2) Terms that are not defined in this Act have the meaning given in the Convention.
- 4 Act binds the Government**
This Act binds the Government.

5 Application

- (1) This Act applies to—
 - (a) acts done in Niue by any person; and
 - (b) acts done outside Niue—
 - (i) by a resident of Niue; or
 - (ii) by any person on board a sea vessel or aircraft registered in Niue or belonging to, or in the possession of, Niue.
- (2) In subsection (1)(b)(i), “resident of Niue” —
 - (a) means a person who normally resides in Niue; or
 - (b) means a person who, having been actually resident in Niue with the intention of residing there indefinitely, is outside of Niue, and ever since being outside Niue, has had the intention to return to Niue to reside indefinitely; but
 - (c) does not include a person who has resided outside Niue for a continued period of more than 3 years regardless of his or her intention to return to Niue, unless for substantially the entire period the person is –
 - (i) outside Niue for the purposes of undergoing a course of education or technical training or instruction; or
 - (ii) is in the service of the Niue Government.

PART 2

Implementation of the Convention

6 Prohibitions

- (1) No person may develop, produce, manufacture, possess, stockpile, otherwise acquire or retain, transfer to any recipient directly or indirectly, or use —
 - (a) any microbial or other biological agent or any toxin, whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective, or other peaceful purposes; or
 - (b) any weapon, equipment, or means of delivery designed to use such an agent or toxin for hostile purposes or in armed conflict.
- (2) No person may in any way assist, encourage, or induce any State, group of States, or international organizations to manufacture or otherwise acquire any of the things specified in subsection (1).
- (3) Any person who does anything described in subsection (1) or (2) commits an offence, and is liable on conviction to the penalty set out in section 14(1).

Enforcement

7 National Authority

The Office of the Secretary to the Government is the National Authority for the purposes of the Convention.

8 Designation of inspectors

- (1) The Minister may designate a suitable person or class of persons as an inspector for the purpose of the enforcement of this Act, and set conditions applicable to the person's inspection activities,
- (2) The Minister must consult any other Minister who has powers in relation to microbial or other biological agents or toxins before designating any person under subsection (1).

Biological Weapons Convention

(3) The Minister must give a certificate of designation to any inspector designated under subsection (1) that states the privileges and immunities that apply to the person and any powers under section 9 or 10.

(4) An inspector must, on entering any place under this Act, produce the certificate of designation at the request of any individual in charge of that place.

9 Entry and inspection

(1) For the purpose of ensuring compliance with this Act, an inspector may enter and inspect, at any reasonable time, any place in which the inspector believes on reasonable grounds there is —

- (a) any microbial or other biological agent or any toxin; or
- (b) any weapon, equipment, or means of delivery designed to use such an agent or toxin; or
- (c) any information relevant to the administration of this Act.

(2) An inspector carrying out an inspection may do any of the following:

- (a) require the attendance of, and question, any person who the inspector considers will be able to assist in the inspection:
- (b) examine, take samples of, detain, or remove any thing referred to in subsection (1):
- (c) require any person to produce for inspection, or to copy, any document that the inspector believes contains any information relevant to the administration of this Act:
- (d) require that any individual in charge of the place take any measures that the inspector considers appropriate:
- (e) use or cause to be used any computer or data processing system to examine any data contained in or available to the computer or system:
- (f) reproduce or cause to be reproduced any record from the data, in the form of a printout or other intelligible output, and remove the printout or other output for examination or copying:
- (g) use or cause to be used any equipment at the place to make copies of any data or any record, book of account, or other document.

(3) An inspector carrying out an inspection must be accompanied by a Police Officer in uniform and any other person appointed by the Minister.

10 Warrant to enter dwelling-house

(1) An inspector may not enter a dwelling-house except with the consent of the occupant or under the authority of a warrant issued under subsection (2).

(2) A Commissioner of the High Court may issue a warrant authorising an inspector to enter a dwelling-house on conditions specified in the warrant. if the Commissioner is satisfied that —

- (a) the conditions for entry described in section 9(1) exist in relation to the dwelling-house; and
- (b) entry into the dwelling-house is necessary for any purpose relating to the administration of this Act; and
- (c) entry into the dwelling-house has been refused or there are reasonable grounds to believe that entry will be refused.

(3) An inspector may not use force to execute the warrant unless its use is specifically authorised in the warrant.

(4) An inspector may enter and inspect a dwelling-house without a warrant if the conditions for obtaining a warrant exist but by reason of urgency it would not be practical to obtain a warrant.

11 Search and seizure

An inspector who searches, seizes and detains any thing must, as soon as practicable, advise its owner or the person having the possession, care, or control of it at the time of its seizure of the reason for the seizure.

12 Obstruction and false statements

(1) A person must not obstruct, hinder, or knowingly make any false or misleading statement either orally or in writing to an Inspector carrying out duties under this Act.

(2) The owner or person in charge of a place entered under section 9 or 10, and every person present in that place, must give an inspector all reasonable assistance to enable the inspector to perform his or her duties, and must supply the inspector with any information related to the administration of this Act that the inspector reasonably requests.

(3) Except with the authority of an inspector, a person must not remove, alter, or interfere in any way with anything seized under this Act.

(4) Any person who breaches or fails to comply with subsection (1), (2), or (3) commits an offence and is liable on conviction to the penalty set out in section 14(2).

13 Directions requiring disposal of dangerous substances

(1) If the Minister has reasonable grounds for believing that adequate measures to ensure the security of any dangerous substance kept or used at any premises are not being taken and are unlikely to be taken, the Minister may give a direction to an inspector requiring the inspector to dispose of the substance.

(2) The direction must specify the manner in which, and time by which, the dangerous substance must be disposed of.

(3) Any person who fails to comply with a direction commits an offence and is liable on conviction to the penalty set out in section 14(2).

14 Penalties

(1) The penalty for an offence under section 6(3) is:

- (a) in the case of an individual, imprisonment for a term not exceeding 10 years, or to a fine not exceeding 10 000 penalty units, or both;
- (b) in any other case, a fine not exceeding 10 000 penalty units.

(2) The penalty for an offence under section 12(4) and section 13(3) is:

- (a) in the case of an individual, imprisonment for a term, not exceeding 12 months, or to a fine not exceeding 1000 penalty units or both;
- (b) in any other case, a fine not exceeding 1000 penalty units.

15 Liability of directors and others

(1) This section applies to any director, manager, secretary or other similar officer of a body corporate or any person who was purporting to act in such capacity.

(2) If a body corporate is convicted of an offence under this Act, then if it is proved that the offence was committed with the consent and connivance of, or is attributable to any negligence on the part of, a person to whom this section applies, that

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person, as well as the body corporate, is guilty of that offence and is liable to the appropriate penalty under section 14.

PART 3

Miscellaneous

16 Regulations

Cabinet may make regulations —

- (a) identifying substances or things that are, or are not, microbial or biological agents, toxins, equipment or means of delivery for the purposes of this Act;
- (b) publishing the criteria for the designation of inspectors;
- (c) prescribing the privileges and immunities of inspectors;
- (d) providing for any other matters contemplated by this Act, necessary for its full administration, or necessary for giving full effect.

Schedule .

Convention on the Prohibition of the Development, Production, and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction.

The States Parties to this Convention,

Determined to act with a view to achieving effective progress towards general and complete disarmament, including the prohibition and elimination of all types of weapons of mass destruction, and convinced that the prohibition of the development, production and stockpiling of chemical and bacteriological (biological) weapons and their elimination, through effective measures, will facilitate the achievement of general and complete disarmament under strict and effective international control,

Recognising the important significance of the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases and of Bacteriological Methods of Warfare, signed at Geneva on 17 June 1925, and conscious also of the contribution which the said Protocol has already made, and continues to make, to mitigating the horrors of war,

Reaffirming their adherence to the principles and objectives of that Protocol and calling upon all States to comply strictly with them,

Recalling that the General Assembly of the United Nations has repeatedly condemned all actions contrary to the principles and objectives of the Geneva Protocol of 17 June 1925,

Desiring to contribute to the strengthening of confidence between peoples and the general improvement of the international atmosphere,

Desiring also to contribute to the realisation of the purposes and principles of the Charter of the United Nations,

Convinced of the importance and urgency of eliminating from the arsenals of States, through effective measures, such dangerous weapons of mass destruction as those using chemical or bacteriological (biological) agents,

Recognising that an agreement on the prohibition of bacteriological (biological) and toxin weapons represents a first possible step towards the achievement of agreement on effective measures also for the prohibition of the development, production and stockpiling of chemical weapons, and determined to continue negotiations to that end,

Determined, for the sake of all mankind, to exclude completely the possibility of bacteriological (biological) agents and toxins being used as weapons,

Convinced that such use would be repugnant to the conscience of mankind and that no effort should be spared to minimise this risk,

Have agreed as follows:

ARTICLE I

Each State Party to this Convention undertakes never in any circumstances to develop, produce, stockpile or otherwise acquire or retain:

1. microbial or other biological agents, or toxins whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes;
2. weapons, equipment or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict.

ARTICLE II

Each State Party to this Convention undertakes to destroy, or to divert to peaceful purposes, as soon as possible but not later than nine months after the entry into force of the Convention, all agents, toxins, weapons, equipment and means of delivery specified in Article I of the Convention, which are in its possession or under its jurisdiction or control. In implementing the provisions of this Article all necessary safety precautions shall be observed to protect populations and the environment.

ARTICLE III

Each State Party to this Convention undertakes not to transfer to any recipient whatsoever, directly or indirectly, and not in any way to assist, encourage, or induce any State, group of States or international organisations to manufacture or otherwise acquire any of the agents, toxins, weapons, equipment or means of delivery specified in Article I of the Convention.

ARTICLE IV

Each State Party to this Convention shall, in accordance with its constitutional processes, take any necessary measures to prohibit and prevent the development, production, stockpiling, acquisition or retention of the agents, toxins, weapons, equipment and means of delivery specified in Article I of the Convention, within the territory of such State, under its jurisdiction or under its control anywhere.

ARTICLE V

The States Parties to this Convention undertake to consult one another and to cooperate in solving any problems which may arise in relation to the objective of, or in the application of the provisions of, the Convention. Consultation and cooperation pursuant to this Article may also be undertaken through appropriate international procedures within the framework of the United Nations and in accordance with its Charter.

ARTICLE VI

(1) Any State Party to this Convention which finds that any other State Party is acting in breach of obligations deriving from the provisions of the Convention may lodge a complaint with the Security Council of the United Nations. Such a complaint should include all possible evidence confirming its validity, as well as a request for its consideration by the Security Council.