



# PUBLIC SERVICE Act 2026

No. 384

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**An Act to provide for matters relating to the Niue Public Service.**

**The Assembly enacts as follows –**

- 1 Title**  
This Act is the Public Service Act 2026.
- 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 provisions**

- 3 Purpose**  
The purpose of this Act is to –
  - supplement the Constitution by clarifying the roles of, and relationship between, the Cabinet, Commission, and Public Service; and
  - provide for other matters relating to the Public Service, including the establishment of agencies and the Code of Conduct for employees.
- 4 Interpretation**  
In this Act, unless the context otherwise requires, –  
**agency** means a department, ministry, or office of the Government  
**Commission** means the Public Service Commission for Niue established by article 64 of the Constitution  
**contract employee** means a person employed on a contract of service under the Public Service Regulations 2004  
**employee** means a person employed in the Public Service as a permanent employee, a probationer, a contract employee, or a temporary employee  
**permanent employee** means an employee other than a probationer, or a contract employee, or a temporary employee (see the definition in the Public Service Regulations 2004)  
**probationer** means a person employed on probation under the Public Service Regulations 2004

**Public Service** means the Niue Public Service established by article 62 of the Constitution

**public service principles** means the principles set out in section 6

**Public Service Regulations 2004** includes any regulations that replace the Public Service Regulations 2004 and, in reference to any particular regulation, means the equivalent regulation in the replacement regulations

**regulations** means regulations made under this Act

**Secretary** means the Secretary to the Government of Niue appointed under article 63 of the Constitution who is the permanent head of the Public Service and the chief administrator of the Government

**temporary employee** means a person employed as a temporary employee under the Public Service Regulations 2004.

**5 Act binds the Government**

This Act binds the Government.

**6 Public service principles**

(1) The public service principles are the following:

- (a) to act impartially, with integrity, and in accordance with the law:
- (b) to give well reasoned and accurate advice:
- (c) to implement Government policies and priorities in an efficient, effective, and responsible way and be responsive to changes in Government policies and priorities:
- (d) to deliver public services in an efficient, effective, and responsible way and be responsive to the needs of the community:
- (e) to seek continuous improvement in –
  - (i) the delivery of public services:
  - (ii) the administration of the Public Service:
  - (iii) employee performance:
- (f) to use public resources responsibly:
- (g) to create, keep, and manage public records in accordance with generally accepted standards:
- (h) to not act in a way that could bring the Public Service into disrepute.

(2) The Commission is responsible only to the Minister for –

- (a) the requirement in section 9(b) to promote the public service principles:
- (b) the requirement in section 16(3) to have regard to the principles when recommending amendments to the Code of Conduct.

(3) The Secretary is responsible only to the Commission for the requirement in section 12(b) to promote the public service principles.

- (4) Heads of agencies are responsible only to the Secretary for the requirement in section 13(1)(c) to manage and structure their agency having regard to the public service principles.

**Part 2**  
**Cabinet and Public Service leadership**

*Functions and duties of Commission*

- 7 Commission to act impartially and in the public interest in all matters**  
Subject to complying with article 68(4) of the Constitution, the Commission must perform its functions and duties, and exercise its powers, impartially and in the public interest.
- 8 Commission to act independently in employment matters**  
(1) Under article 68(1) of the Constitution, the Commission is the employer of employees in the Public Service.  
(2) In accordance with article 69(2) of the Constitution, the Commission must act independently of the Cabinet in all matters relating to decisions about individual employees.
- 9 Functions and duties of Commission**  
In addition to carrying out the Commission's functions and duties under article 68 of the Constitution, the Commission must—
- (a) provide strategic leadership for the Public Service; and
  - (b) promote the public service principles; and
  - (c) subject to article 69(2) of the Constitution, advise Ministers on matters affecting the Public Service; and
  - (d) advise heads of agencies on matters affecting the Public Service; and
  - (e) advocate and encourage initiatives to improve service delivery and achieve better outcomes for the public; and
  - (f) promote co-operation between agencies and better ways for them to work together to achieve Government policies and priorities; and
  - (g) protect the lawful interests of the Government; and
  - (h) engage with the Secretary and heads of agencies on a regular basis on matters that—
    - (i) are of mutual interest to the Commission and the Secretary or agency; and
    - (ii) are relevant to the functions of the Commission and the Secretary or agency; and
  - (i) implement appropriate management and employment practices in the Public Service; and

- (j) undertake administrative rearrangements (see section 15); and
- (k) consider improvements to terms and conditions of employment to encourage retention of skilled and experienced employees.

*Relationship between Commission and Cabinet*

**10 Communication between Commission and Cabinet**

- (1) The Commission must use its best endeavours to provide a free and regular flow of information to the Cabinet on matters relating to—
  - (a) Government policy; and
  - (b) the resource implications of Government policy for the Public Service; and
  - (c) the likely effects of Government policy and the associated resource implications on the Public Service.
- (2) The flow of information may occur through any practicable means, including—
  - (a) meetings between the Commission and the Cabinet;
  - (b) providing information to the Cabinet through the Secretary;
  - (c) providing written reports to the Cabinet.
- (3) This section is in addition to, and does not limit or affect, any requirement in this Act or the Constitution for the Commission to provide the Cabinet with any report, advice, or other information.

**11 Commission's report to Cabinet**

- (1) This section applies to a report that is prepared by the Commission for the Cabinet under article 68(5) of the Constitution.
- (2) The Commission must consult the Secretary when preparing the report.
- (3) The report must at least include—
  - (a) all of the following information, which must, as far as practicable, be current as at the date of the report:
    - (i) the names and grades of all current employees;
    - (ii) the total number of employees;
    - (iii) the number of each of the following:
      - (A) permanent employees;
      - (B) contract employees;
      - (C) temporary employees;
      - (D) probationer employees;
    - (iv) the number of vacancies in the Public Service;
  - (b) the total number of each of the following for the year covered by the report:
    - (i) the positions in the Public Service that were established;
    - (ii) the positions in the Public Service that were disestablished;
    - (iii) employees who retired from the Public Service;

- (iv) employees who were dismissed or suspended from, or who forfeited, their employment in the Public Service:
- (v) promotions of employees:
- (vi) completed performance assessments of employees:
- (vii) reviews of grading applied for:
- (viii) employees transferred within the Public Service:
- (c) information about the appointments made in the Public Service in the year covered by the report, including the following:
  - (i) the qualifications and work experience of appointees:
  - (ii) the number of Niueans appointed:
- (d) information about the following matters in relation to the year covered by the report:
  - (i) training provided to employees:
  - (ii) industrial issues:
  - (iii) occupational health and safety:
  - (iv) employee welfare:
  - (v) the administration of leave arrangements:
  - (vi) disciplinary proceedings against employees:
  - (vii) the specified offices (which are the offices identified as such in the Public Service Regulations 2004):
  - (viii) any other matters that the Commission wishes to draw to the attention of the Cabinet.

*Functions and duties of Secretary*

**12 Functions and duties of Secretary**

In addition to carrying out the Secretary's functions and duties under article 63 of the Constitution, the Secretary must—

- (a) provide administrative and operational leadership to the Public Service; and
- (b) promote the public service principles; and
- (c) monitor how the heads of agencies have regard to the public service principles in managing and structuring their agencies; and
- (d) give directions as necessary to ensure that agencies give effect to the Government's policies and priorities; and
- (e) inform the heads of agencies of, and provide them with advice in relation to, matters of concern (if any) to the Secretary or the Cabinet relating to the agency.

*Functions and duties of heads of agencies*

**13 Functions and duties of heads of agencies**

- (1) In addition to carrying out the functions and duties of heads of agencies under article 63(2) of the Constitution, the head of each agency must—

- (a) provide strategic leadership and direction for their agency and set agency goals and objectives that give effect to Government policies and priorities; and
  - (b) comply with lawful directions (if any) given by the Secretary under section 12(d); and
  - (c) manage and structure their agency having regard to the public service principles; and
  - (d) implement management practices that—
    - (i) are responsive to changes in Government policies and priorities; and
    - (ii) allow decisions and actions to be taken promptly; and
  - (e) promote continuing evaluation and improvement of persons involved in managing the agency or any part of it; and
  - (f) ensure that—
    - (i) programs administered by the agency for the purpose of providing assistance to the community are accessible to community members; and
    - (ii) there are appropriate avenues for reviewing the administration of the programs; and
  - (g) ensure that public records, including records required by the Public Service manual, are created, kept, and managed in accordance with proper standards; and
  - (h) after the end of each financial year, submit a report on the activities of their agency to the Commission and the Minister responsible for the agency.
- (2) The Minister must present the report required by subsection (1)(h) to the Niue Assembly as soon as practicable after receiving it.

### **Part 3**

## **Organisation of Public Service and Code of Conduct**

### *Organisation of Public Service*

#### **14 Establishment of agencies**

- (1) The Cabinet may do any or all of the following:
  - (a) establish or disestablish an agency;
  - (b) allocate a name to an agency or change an agency's name;
  - (c) specify the functions of an agency or alter the functions of an agency by adding functions or removing functions.
- (2) The Cabinet must consult the Commission before taking an action under subsection (1).
- (3) To avoid doubt, —
  - (a) an agency consists of the head of the agency together with the employees of the Public Service who hold positions in the agency;

- (b) when an agency is disestablished, –
  - (i) the office of the head of the agency, and every other position in the agency, is disestablished:
  - (ii) the Commission may (but is not required to) transfer an employee who held a position in the disestablished agency to another agency, a statutory corporation, or a Crown-owned company under section 15.
- (4) Subsection (1) is subject to any other Act.
- (5) See the transitional provision for existing agencies in section 18.

**15 Transfer of employees following administrative rearrangement**

- (1) The Commission may, by written determination, do either or both of the following if it is satisfied that the action is necessary to give effect to an administrative rearrangement:
  - (a) transfer employees of the Public Service from one agency to another agency:
  - (b) transfer employees of the Public Service to the employment of a statutory corporation or a Crown-owned company.
- (2) However, see section 14(3)(b)(ii) (Commission not required to transfer employee if agency disestablished).
- (3) Before taking an action under this section, the Commission –
  - (a) must consult the head of each agency from which any employee is to be transferred; and
  - (b) must consult the head of the agency, statutory corporation, or Crown company to which any employee is to be transferred; and
  - (c) must consult the affected employee; but
  - (d) need not obtain the approval of the Cabinet.
- (4) An employee must be transferred on no less favourable conditions and terms of employment.
- (5) An employee of the Public Service who is transferred to a statutory corporation or Crown-owned company ceases to be an employee of the Public Service and becomes an employee of the statutory corporation or Crown-owned company on the date specified in the Commission's determination.
- (6) In this section, –
  - administrative rearrangement** means any of the following (and does not include a transfer for disciplinary reasons):
    - (a) the establishment or disestablishment of an agency, a statutory corporation, or a Crown-owned company:
    - (b) a change in the functions of an agency, a statutory corporation, or a Crown-owned company:
    - (c) the establishment or disestablishment of a position in the Public Service

**Crown-owned company** means a company incorporated under the Companies Act 2006 that is wholly owned by the Crown.

*Code of Conduct*

**16 Code of Conduct**

- (1) The Code of Conduct for the Public Service that sets minimum standards of integrity and conduct is set out in the Schedule. It applies to heads of agencies and employees.
- (2) The Cabinet may, by regulation, amend the Code of Conduct on the advice of the Minister given in accordance with a recommendation of the Commission.
- (3) The Commission must have regard to the public service principles when making a recommendation under subsection (2).
- (4) If an employee breaches the Code of Conduct, the Commission may take disciplinary action in accordance with the terms and conditions of the employee's employment, employment contract, the Public Service Regulations 2004, the regulations, and applicable policies of the Commission.
- (5) In this section and section 17, Minister means the Minister responsible for the administration of this Act.

**Part 4**

**Regulations, transitional provisions, and consequential amendment**

*Regulations*

**17 Regulations**

- (1) Cabinet may, on the advice of the Minister given in accordance with a recommendation of the Commission, make regulations for the purposes of this Act.
- (2) In particular, regulations may be made for all or any of the following purposes:
  - (a) providing for matters relating to the employment of employees, including—
    - (i) the process for dealing with vacancies in the Public Service:
    - (ii) the process and criteria for appointing employees:
    - (iii) the terms and conditions of employment in the Public Service, including in relation to leave:
    - (iv) the grading and promotion of employees:
    - (v) the ending of employment in the Public Service, including the retirement of employees:
    - (vi) the discipline of employees and the appeal of disciplinary decisions:
  - (b) protecting the health and safety of employees:

- (c) providing for the appointment of employees as members of the Commission:
  - (d) providing for matters relating to employees' candidacy and membership of the Niue Assembly or Village Councils:
  - (e) providing for the inspection or monitoring of agencies by the Commission:
  - (f) regulating industrial action by employees, including by prohibiting industrial action in specified circumstances:
  - (g) providing for any other matters contemplated by this Act, necessary for its full administration, or necessary for giving it full effect.
- (3) Regulations made for the purpose of subsection (2)(a) may provide for persons engaged by the Commission in any way other than as an employee to be treated as employees for the purposes of the regulations and this Act.

*Transitional provisions*

**18 Existing agencies**

An agency that is in existence immediately before the commencement of this Act is deemed to have been established under section 14(1)(a) and this Act applies to the agency in the same way as it applies to any other agency.

*Consequential amendment*

**19 Amendment to Public Service Regulations 2004**

- (1) This section amends the Public Service Regulations 2004.
- (2) Revoke regulation 6.

**Schedule**  
**Public Service Code of Conduct**

Professionalism and political neutrality

**1. Obligations to Government**

- (1) Employees must at all times conduct their official duties in a proper and reliable manner.
- (2) When undertaking their official duties, employees must always seek to advance the lawful interests of the Government and keep those interests foremost in their actions.
- (3) Employees must ensure that their personal activities do not interfere, or appear to interfere, with their official duties.

**2. Political neutrality**

- (1) Employees must implement the policies of the current Government.
- (2) Employees must provide honest, impartial, and comprehensive advice that includes any possible consequences of following particular strategies.
- (3) Recognition is given to the dilemma of employees who hold strong personal beliefs, but they must ensure that those beliefs do not affect the way in which they carry out their official duties.

**3. Political participation**

- (1) Employees must be able to maintain Ministerial and public confidence in the impartiality of all advice and actions taken by them.
- (2) Employees are entitled to participate in political activities but must do so in accordance with this Code of Conduct.
- (3) Employees must ensure that their participation in political activities does not bring them into conflict, or the appearance of conflict, with their duty as public servants to act in a politically neutral manner.
- (4) An employee must advise their senior officer if they have not complied, or may not comply, with subclause (3). The appropriate manner for any political participation by or planned by employees must be determined according to the individual's position in the Public Service, the nature of the issue, and extent of the participation.

**4. Standing as Member of the Niue Assembly or other public organisation**

- (1) Article 18 of the Constitution applies to all employees offering themselves as candidates or becoming members of the Niue Assembly.
- (2) Regulations 31 and 32 of the Public Service Regulations 2004 apply to all employees offering themselves as candidates to the Niue Assembly or a Village Council.

- (3) Employees who offer themselves as candidates or subsequently become members of the Niue Assembly must not, and must not be permitted or required to, carry out any of their official duties at any time beginning from nomination date and for the duration of their term as a member of the Niue Assembly.
- (4) Employees are free to stand for, or be appointed to, any office or position in any public organisation provided that there is no actual or appearance of conflict between such participation and their official duties and official responsibilities.
- (5) Before offering themselves as candidates for public office, employees must notify their intention to do so to the Commission as soon as practicable.
- (6) In this clause, **public organisation** includes a statutory corporation, a state-owned enterprise, a Crown-owned company, and a non-governmental organisation.

#### **5. Duty of confidence**

- (1) All employees have a duty to keep strictly confidential all information obtained through the course of their employment or gained from the performance of their official duties. However, certain, and limited, confidential information may be disclosed with authorisation by a senior officer.
- (2) Employees must continue to keep all information confidential after they have left or been removed from the Public Service on a temporary or permanent basis, including as the result of—
  - (a) the contract of a contract employee ending; or
  - (b) a permanent employee resigning, retiring, being made redundant, or otherwise having their employment terminated.

#### **6. Official communications and freedom of speech**

- (1) Only employees who are authorised to do so may make official communications on behalf of the agency.
- (2) Employees are entitled to make private communications with any Minister or Member of the Niue Assembly about matters outside of their official duties. However, matters concerning an employee's official duties or an agency must not be disclosed in private communications unless the relevant authority has approved the disclosure.
- (3) Employees must obtain proper authority before they make any communication to the public regarding any information gained in the course of, or related to, the performance of their official duties.
- (4) Employees share the same right to freedom of speech as ordinary members of the public, but their exercise of the right must not compromise their ability to comply with their obligations under this Code of Conduct.

- (5) Employees must ensure that their contributions to any public debate or discussion are appropriate to the position they hold and are compatible with the need to maintain a politically neutral Public Service.

#### Performance of duties

### **7. General performance of duties**

- (1) Employees must carry out their official duties in an efficient and competent manner and avoid behaviour that might impair their effectiveness.
- (2) Employees have an obligation to effectively carry out the policies of the Government. This obligation includes the following duties:
  - (a) to obey all lawful orders and instructions;
  - (b) to behave in accordance with the law;
  - (c) to avoid practices which may affect the performance of their official duties (such as being under the influence of drugs or alcohol);
  - (d) to ensure that the Public Service is not brought into disrepute or made liable for the breach of a legal duty;
  - (e) to be present at work at all times unless the absence is duly authorised;
  - (f) to protect and utilise all government properties (such as buildings, vehicles, equipment, and resources) for authorised purposes and with care;
  - (g) to consult relevant authorities prior to undertaking employment with another employer.

### **8. Respect for rights of others**

- (1) Employees must ensure that their conduct is polite, friendly, and helpful in all written (including electronic) and oral communications.
- (2) Employees are expected to maintain satisfactory individual performance in accordance with agreed expectations and outcomes.
- (3) Employees have a duty to effectively contribute to the smooth functioning of the workplace by treating their colleagues and the public with proper courtesy and respect. This means that they must—
  - (a) avoid any endangering, distressing, offensive behaviour in the performance of their official duties; and
  - (b) refrain from allowing workplace relationships to adversely affect the performance of official duties; and
  - (c) respect the privacy of individuals when dealing with personal information; and
  - (d) not discriminate against, harass, or bully clients or colleagues on the basis of sex, gender, race, ethnic or national origin, age, disability, marital status, sexual orientation, family status, or religious belief (including lack of religious belief); and

- (e) respect the cultural background of clients and colleagues in all official dealings; and
- (f) have due regard for the safety of others in the course of carrying out their official duties, especially when using Public Service property and resources.

**9. Avoidance of conflicts of interest**

- (1) Employees must perform their official duties honestly and impartially and avoid situations that might compromise their integrity or otherwise lead to a conflict of interest.
- (2) Employees must ensure that no conflict exists, or appears to exist, between their private interests and their official duties. This includes having access to information that could benefit, or potentially benefit, an enterprise or organisation in which they have a financial interest.
- (3) Employees must not allow personal or other interests to affect their ability to provide equal treatment to members of the public.
- (4) Employees must promptly inform their senior officer of any potential or actual conflict of interest that may affect the performance of their official duties. The senior officer must assess the nature and extent of this conflict and determine the means of resolving it.
- (5) Senior employees must avoid taking official actions that are, or appear to be, influenced by their individual private interests. Where this occurs, any other employees of the relevant agency that are aware of the actions must inform the Commission. The Commission will then take appropriate action according to the circumstances.
- (6) A potential conflict of interest may arise where a Member of Parliament approaches an agency in his or her private capacity. In such an instance, an employee of the agency must—
  - (a) apply strict impartiality in the assistance given to the Member of Parliament; and
  - (b) report the occurrence to the Commission.

**10. Management of public finance**

- (1) Employees must not expend public money or incur costs unless duly authorised.
- (2) Employees responsible for the financial management of public money must comply with any instructions issued by the Government Treasury Department.
- (3) Employees must not approve their own official expenditure (for example, travel expenses and payment of allowances).
- (4) Employees must ensure that all claims for expenses made against the Government are honestly presented and accompanied by proof of the expenses.

**11. Offers of gifts and gratuities**

- (1) Employees must not abuse their official position for personal gain. They must not solicit or accept gifts, rewards, or benefits in their personal capacity which might compromise, or be seen to compromise, their integrity and the integrity of their agency and the Public Service.
- (2) Employees must not accept any gifts, rewards, or benefits, whether in cash or kind that are gained through the exercise of official duties. All employees have a duty to report any offer of a gift, reward, or benefit to their senior officers.

## **12. Information systems and acceptable use of internet and email**

- (1) Employees must not knowingly cause damage to the Public Service's information technology systems (IT systems) or compromise the integrity of the data stored on those systems.
- (2) No employee may load software or connect hardware to the IT systems without proper authority and express authorisation from the relevant division of the Public Service.
- (3) Employees are personally responsible and accountable for their use of the IT systems and must ensure any storage media (for example, a USB flash drive or mobile phone) is checked for viruses before they are used with the IT systems.
- (4) Access to the internet and email is for work-related communications, research, and information purposes and for limited personal use.
- (5) Unacceptable use of the internet or email includes, but is not limited to,—
  - (a) undertaking unlawful or malicious activities:
  - (b) sending mischievous messages or messages that include abusive or objectionable language or images:
  - (c) accessing, downloading, transmitting, or otherwise dealing with objectionable material, including sexually explicit or offensive material:
  - (d) forwarding or otherwise sharing classified or sensitive material, including sensitive personal information:
  - (e) harassing other email users, whether through language, frequency, or size of messages or any other means:
  - (f) publishing or disseminating—
    - (i) information that is slanderous, libelous, or defamatory:
    - (ii) personal information without the person's consent:
  - (g) accessing or attempting to access other users' emails or documents without authorisation:
  - (h) destroying or damaging computer equipment, software, or data belonging to the Public Service or another party.
- (6) Employees must ensure that their limited personal use of internet or email does not interfere or conflict with the work of the Government.

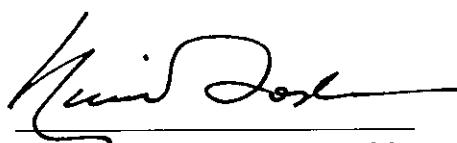
Private activities of employees

13. **Personal behaviour**

- (1) Generally, any personal behaviour that does not interfere or conflict with the official duties of an employee is of no concern to the Government. However, the Government has a legitimate interest in the private activities of an employee where the activities discredit, or appear to discredit, the policies or integrity of the Government.
- (2) All employees must avoid any activity, whether connected to their official duties, personal relationships or otherwise, that might bring the Government into disrepute.
- (3) Employees traveling overseas must maintain a high standard of conduct at all times and must not engage in activities that may discredit the Government.
- (4) The degree of misconduct for any personal behaviour must be determined according to the circumstances of the case.

I, Hima Douglas, Speaker of the Niue Assembly, certify that the requirements of article 34 of the Niue Constitution have been complied with.

SIGNED AND SEALED at the Assembly Chambers this 11<sup>th</sup> day of February 2026.

  
\_\_\_\_\_  
Speaker of the Niue Assembly

COUNTERSIGNED in the presence of the Speaker

MDouglas  
\_\_\_\_\_  
Clerk of the Niue Assembly



\_\_\_\_\_  
This Act is administered by the Niue Public Service Commission.  
This Act was passed by the Niue Assembly on the 4<sup>th</sup> day of February 2026.  
\_\_\_\_\_