



Communications Act 2026

No. 386

Contents

1	Title	3
2	Commencement	3
Part 1		
Preliminary Provisions		
3	Objectives and obligations	4
4	Interpretation	4
5	Act binds the Government	5
Part 2		
Communications networks and services, licences, and Programme Advisory Committee		
<i>Operation of communications networks</i>		
6	Operation of communications networks: licences and fees	6
<i>Communications services licences</i>		
7	Public communications service licence	6
8	Radiocommunications licence	7
9	Eligibility criteria for licences and requests for further information	7
10	Grant of public communications service licences	7
11	Grant of radiocommunications licences	8
12	Review of Communications Regulator's decisions under section 10 or 11 by Cabinet	9
13	Suspension or cancellation of licence	9
14	Process for renewal of licence	10
<i>Programmes</i>		
15	Programmes of public communications service	10
<i>Programme Advisory Committee</i>		
16	Programme Advisory Committee	10
<i>Cabinet requirements</i>		
17	Power of Cabinet to require certain transmissions and integration with emergency services	11
<i>Directions by Communications Regulator</i>		
18	Communication Regulator may give directions	12
<i>Regulations</i>		
19	Regulations (Part 2)	12

Part 3
Requirements on Providers

20	Application	13
21	Requirements on providers	13
22	Regulations (Part 3)	14

Part 4
**Communications Regulator and Regulatory Office,
Communications Services Quality Code, and dispute resolution**
Communications Regulator

23	Appointment of Communications Regulator	14
24	Communications Regulator must act independently	15
25	Functions and powers of Communications Regulator	15
26	Delegation by Communications Regulator	16

Regulatory Office

27	Functions of Regulatory Office	16
----	--------------------------------	----

Communications Services Quality Code

28	Communications Services Quality Code	16
29	Content of code	17

Dispute resolution

30	Dispute resolution	17
----	--------------------	----

Regulations

31	Regulations (Part 4)	18
----	----------------------	----

Part 5
Monitoring, enforcement, and offences
Monitoring, investigations, and search power

32	Audits	18
33	Inspections	19
34	Investigations	19
35	Search power	20

Enforcement by Communications Regulator

36	Cease and desist order for breach of Act, code, or licence	20
37	Remediation plans for breach of code	20

Offences

38	Providing communications services other than in accordance with Act	21
39	Misleading or deceptive conduct	21
40	Failure to keep personal or commercial information about consumer confidential	21
41	Failure to facilitate audit or inspection or comply with rules, or comply with directions given for inspection	22
42	Failure to comply with cease and desist order or prepare or implement remediation plan	22
43	Interference with communications network	22
44	Forfeiture	22

Regulations

45	Regulations (Part 5)	23
----	----------------------	----

Part 6
Postal services

46	Obligation to act in accordance with international agreements	23
47	Interpretation	23
48	Control on carriage of postal articles	23
49	Control on creation of postage stamps	23

50	Stealing postal articles	23
51	Delaying and interfering with postal articles	23
52	Divulging contents of postal articles	24
53	Prohibited material	24
54	Penalties	24
55	Lawful opening of postal articles	24
56	Insufficient postage	25
57	Regulations (Part 6)	25

Part 7

Niue ICT Advisory Committee

58	Interpretation	25
59	Objectives and obligations	25
60	Niue ICT Advisory Committee	26
61	Appointed Managers of electronic addressing	26
61A	Prohibition on Unauthorised Management of the ccTLD .nu	26
61B	Cabinets Power to Enforce Control over the ccTLD .nu	27
61C	Right of Oversight and Monitoring of the ccTLD .nu Management	27
61D	Mandatory Data Replication for National Security and International Compliance	27
62	Cabinet may give directions to Appointed Manager of electronic addressing	28
63	Delegation of powers	29

Part 8

Miscellaneous provisions

Regulations generally

64	Regulations generally	29
----	-----------------------	----

Repeals and amendments

65	Communications Act 1989 repealed	29
66	Amendments to other Acts	29

Transitional and savings provisions

67	Transitional provision for service providers	29
68	Transitional provision for persons appointed under Communications Act 1989	29
69	Savings	30

Schedule

Amendments to Acts

An Act to—

- (a) replace the Communications Act 1989;**
- (b) regulate communications services in Niue.**

The Assembly enacts as follows—

1 Title

This Act is the Communications 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 Objectives and obligations

- (1) In the administration of this Act, the Cabinet, the Regulatory Office, and the Communications Regulator must have regard to the following objectives:
- (a) facilitating the development of communications services both within Niue and between Niue and elsewhere:
 - (b) providing within Niue public communications services of a kind and quality appropriate to the social, cultural, educational, and economic needs of Niue:
 - (c) ensuring that effective means exist to control and supervise the programmes transmitted by any public communications service within Niue so that they benefit the Niuean community:
 - (d) providing the people of Niue with reliable and efficient communications services at a reasonable cost:
 - (e) establishing a fair, objective, and transparent licensing regime for providers:
 - (f) protecting the interests of consumers:
 - (g) promoting fair and effective regulation:
 - (h) promoting efficient management and use of radio spectrum and other resources:
 - (i) promoting innovation and sustainable investment.
- (2) In the administration of this Act the Cabinet, the Regulatory Office, and the Communications Regulator must, so far as practicable, act in accordance with any applicable standards, rules, and regulations set by international agreements binding upon Niue.

4 Interpretation

In this Act, unless the context otherwise requires,—

Act includes regulations made under this Act

Appointed Manager has the meaning given in section 61

code means the Communications Services Quality Code described in section 28

communication means the transmission or conveyance by electromagnetic means (including by a wire, or by wireless, radio, optical, or similar means) from one device to another of any encrypted or non-encrypted sign, signal, impulse, writing, image, sound, instruction, information, or intelligence of any nature and to avoid doubt includes a telecommunication

communications network or network—

- (a) means a system or part of a system that permits or facilitates the transmission or conveyance of communications, including the following:
- (i) a satellite:
 - (ii) a radio or other spectrum:
 - (iii) an installation:
 - (iv) a radiocommunications transmitter, radiocommunications receiver, or radiocommunications transceiver:

- (v) a line or cable:
- (vi) a computer or device including a personal device, for example, a television or mobile phone:
- (vii) a thing similar to any of the things in subparagraphs (i) to (vi):
- (b) includes a communications network or part of a communications network described in paragraph (a) that is outside Niue through which a service is provided directly to a consumer by a provider

Communications Regulator means the person appointed under section 23
communications service or service—

- (a) means the provision of any goods, services, equipment, or facilities to consumers that enable or facilitate communications via a communications network—
 - (i) within Niue:
 - (ii) to Niue from outside Niue:
 - (iii) from Niue to outside Niue:
 - (iv) to which 1 or more of subparagraphs (i) to (iii) apply:
- (b) does not include providing a communications service to a private group:
- (c) includes a service of the type described in paragraph (a) provided directly to a consumer by a provider from outside Niue

consumer means an individual or a body that is provided with a communications service by a provider

general public includes people inside or outside Niue

Minister means the Minister who is, for the time being, responsible for the administration of this Act

NPSC means the Niue Public Service Commission

outside Niue includes via satellite or similar thing

private group means a group where the members share a common characteristic or interest and for which what would otherwise be a communications service is provided to the members of the group (whether or not a fee is payable for membership of the group) for a reason other than a commercial transaction, for example, members of a church, school, or sports club or the employees of an employer

Programme Advisory Committee means the committee continued by section 16

provider includes both of the following:

- (a) the provider of communications services under a licence given under section 7 or 8:
- (b) a person outside Niue providing a communications service directly to a consumer or another provider in Niue (whether or not that person holds the relevant licence under this Act)

reception includes interception and **receive** has a corresponding meaning.

5 Act binds the Government

This Act binds the Government.

Part 2

Communications networks and services, licences, and Programme Advisory Committee

Operation of communications networks

6 Operation of communications networks: licences and fees

- (1) Except as provided in this section, no person may operate a communications network to provide a communications service without a licence granted under this Part.
- (2) No person resident in Niue may operate a communications network (for example, by use of a computer or personal device) to provide a communications service to a private group of more than a prescribed number of members without paying the prescribed fee.
- (3) No person resident in Niue may operate a communications network (for example, by use of a computer or personal device) to directly receive signals emanating from outside Niue without paying the prescribed fee.
- (4) Subsections (1) to (3) do not apply to a person acting on behalf of the Government in accordance with a general or specific authorisation given by the Cabinet.
- (5) Except as provided in subsection (4), a person who contravenes subsection (1) commits an offence and is liable on conviction to the following:
 - (a) in the case of an individual, a fine not exceeding 15 penalty units or to imprisonment for a term not exceeding 3 months, or both;
 - (b) in any other case, a fine not exceeding 250 penalty units.
- (6) Except as provided in subsection (4), a person who contravenes subsections (2) or (3), commits an offence and is liable on conviction to the following:
 - (a) in the case of an individual, a fine not exceeding 10 penalty units;
 - (b) in any other case, a fine not exceeding 20 penalty units.
- (7) To avoid doubt, a person convicted under subsection (6) remains liable to pay any outstanding fee or fees.
- (8) In this section,—
operate does not include use of a communications network by an individual to communicate with another individual
signals does not include signals intended for reception by the general public.

Communications services licences

7 Public communications service licence

- (1) A public communications service licence authorises the licensee to provide a communications service that enables the transmission of communications and the direct reception of those communications by the general public.
- (2) If members of the general public are not entitled to be provided with a communications service unless they pay a fee, or if communications are provided in an encoded form, that fact alone does not indicate that the service is not intended for direct reception by the general public.

8 Radiocommunications licence

A radiocommunications licence authorises the licensee to operate 1 or more of the following to provide a communications service:

- (a) a radiocommunications transmitter;
- (b) a radiocommunications receiver;
- (c) a radiocommunications transceiver.

9 Eligibility criteria for licences and requests for further information

- (1) This section applies to the licences under sections 7 and 8.
- (2) The Communications Regulator must determine and publish all of the following:
 - (a) the eligibility criteria for each type of licence;
 - (b) the process for applying for each type of licence, including the information that must be included in an application;
 - (c) an estimate of the time by which an application is likely to be determined.
- (3) The Communications Regulator may request further relevant information from an applicant (for a licence or renewal of a licence) and specify a date by which it must be provided. The applicant must provide the information by that date. If they do not, the application lapses.
- (4) However, the Communications Regulator may amend the date referred to in subsection (3) if they consider it to be unreasonable in the circumstances.
- (5) The Communications Regulator may decide an application for a licence or renewal of a licence only when satisfied that they have sufficient information to do so and on payment of the prescribed fee (if any).

10 Grant of public communications service licences

- (1) The Communications Regulator may grant public communications service licences for the periods provided in subsection (3) and may renew any licence for additional periods provided in subsection (3).
- (2) The Communications Regulator may grant a licence only if satisfied that both of the following apply to the applicant:
 - (a) it meets the eligibility criteria;
 - (b) it has sufficient financial, technical, and management capability to provide a public communications service appropriate to the general public of Niue.
- (3) A licence granted under this section is valid for—
 - (a) in the case of a licence relating to terrestrial networks, 10 years or 15 years as determined appropriate by the Communications Regulator;
 - (b) in the case of a licence relating to a network that includes a satellite or similar thing, up to 5 years.
- (4) A licence is subject to the following:
 - (a) conditions, which must be specified in the licence (if any); and
 - (b) specifications relating to the relevant communications network.
- (5) The licence authorises the licensee to operate the relevant communications network, in accordance with those conditions and specifications, for the purpose of the communications service authorised by the licence but for no other purpose.

- (6) A licence, any conditions, and the relevant specifications must be—
 - (a) published on an internet site maintained by or on behalf of the Regulatory Office and be accessible to the public free of charge; and
 - (b) be available in hard copy at the office of the Communications Regulator for inspection by members of the public.
- (7) The Communications Regulator may at any time, after giving the licensee reasonable notice of their intention to do so,—
 - (a) revoke or vary a condition specified in a licence; or
 - (b) make a licence subject to additional conditions.
- (8) The Communications Regulator may refuse to renew a licence or may, at any time, revoke a licence, if, in their opinion, 1 or more of the following apply to the licensee:
 - (a) it has failed to comply with its licence, any conditions on it, and any relevant specifications, this Act, or any other law relating to the operation of a public communications service or relevant communications network:
 - (b) it is no longer a suitable person, or a person involved in its management is no longer a suitable person, to hold the licence (for example, because they have not complied with the programme guidelines published under section 16(2)(b)):
 - (c) it no longer meets the eligibility criteria:
 - (d) it no longer has sufficient financial, technical, or management capability to provide a public communications service appropriate to the general public of Niue.
- (9) A public communications service licence is not transferable by any means (including by sale) unless with the written approval of the Communications Regulator. Approval may be given only if the Communications Regulator considers that the transferee meets the requirements in subsection (2)(a) and (b).

11 Grant of radiocommunications licences

- (1) The Communications Regulator may grant radiocommunications licences for the periods provided in subsection (3) and may renew any licence for additional periods provided in subsection (3).
- (2) The Communications Regulator may grant a licence only if satisfied that both of the following apply to the applicant:
 - (a) it meets the eligibility criteria:
 - (b) it has sufficient relevant expertise to provide the type of communications service, and operate the associated communications network, relevant to the licence.
- (3) A licence granted under this section is valid—
 - (a) in the case of a licence other than a licence under paragraph (b), 5 years:
 - (b) in the case of a short-term licence for a temporary service or a pilot project, 1 year.
- (4) A licence is subject to the following:
 - (a) conditions, which must be specified in the licence (if any); and
 - (b) specifications relating to the relevant communications network.

- (5) The licence authorises the licensee to operate the relevant communications network in accordance with those conditions and specifications, for the purpose of the communications service authorised by the licence but for no other purpose.
- (6) A licence, any conditions, and the relevant specifications must be—
 - (a) published on an internet site maintained by or on behalf of the Regulatory Office and be accessible to the public free of charge; and
 - (b) be available in hard copy at the office of the Communications Regulator for inspection by members of the public.
- (7) The Communications Regulator may at any time, after giving the licensee reasonable notice of their intention to do so,—
 - (a) revoke or vary a condition specified in a licence; or
 - (b) make a licence subject to additional conditions.
- (8) The Communications Regulator may refuse to renew a licence or may, at any time, revoke a licence if, in their opinion, 1 or more of the following apply to the licensee:
 - (a) it has failed to comply with its licence, any conditions on it, and any relevant specifications, this Act, or any other law relating to the operation of the type of communications service and associated communications network relevant to the licence:
 - (b) it no longer meets the eligibility criteria:
 - (c) it no longer has sufficient relevant expertise to provide the type of communications service, and operate the associated communications network, relevant to the licence.
- (9) A radio communications licence is not transferable by any means (including by sale) unless with the written approval of the Communications Regulator. Approval may be given only if the Communications Regulator considers that the transferee meets the requirements in subsection (2)(a) and (b).

12 Review of Communications Regulator's decisions under section 10 or 11 by Cabinet

- (1) The Cabinet may, within 28 days after the Communications Regulator makes a decision under section 10 or 11, review that decision.
- (2) The Cabinet, after reviewing the decision, may confirm or revoke the decision or substitute its own decision.

13 Suspension or cancellation of licence

- (1) This section applies to licences under sections 7 and 8.
- (2) The Communications Regulator may, by written notice given to a licensee, suspend a licence for a specified period if—
 - (a) the Communications Regulator is satisfied that the licensee has—
 - (i) failed to comply with a term or condition of its licence or a relevant specification or contravened this Act; or
 - (ii) failed to comply with a cease and desist order under section 36; or
 - (iii) failed to provide a draft of or implement a remediation plan under section 37; or

- (iv) provided a communications service in material contravention of any other law of Niue; and
 - (b) the licensee has not remedied the contravention within a reasonable period after being notified of it by the Communications Regulator.
- (3) The Communications Regulator must not give a notice under subsection (2) unless they have—
 - (a) given the licensee 90 days' notice of the proposed suspension; and
 - (b) considered any response received from the licensee within the 90-day period.
- (4) The Communications Regulator may, by written notice given to a licensee cancel a licence without compensation to the licensee if—
 - (a) the Communications Regulator is satisfied that the licensee is not, or has ceased to be, eligible to hold a licence; and
 - (b) the Communications Regulator has given notice to the licensee and given it a reasonable opportunity to respond; and
 - (c) the Communications Regulator has considered any response within any time frame set.
- (5) A notice under subsection (3)(a) or (4)(b) must set out the Communications Regulator's reasons for proposing to suspend or cancel the licence.
- (6) The Communications Regulator may, at any time, revoke a suspension of a licence by written notice given to the licensee, if satisfied that the reason for the suspension has been remedied.
- (7) The cancellation of a licence may not be revoked but the former licensee may reapply for a new licence.

14 Process for renewal of licence

- (1) For any licence granted under this Act, the licensee may apply to renew the licence in the period beginning 6 months and ending 3 months before its expiry date.
- (2) An application made within that 3-month period has the effect that the licence continues to have effect until a decision on the renewal application is made by the Communications Regulator.

Programmes

15 Programmes of public communications service

The licensee under a public communications service licence must comply with any programme guidelines issued by the Programme Advisory Committee.

Programme Advisory Committee

16 Programme Advisory Committee

- (1) The Programme Advisory Committee established under the Communications Act 1989 is continued and must consist of not less than 3 members nor more than 6 members appointed by the Cabinet.
- (2) The Programme Advisory Committee must—
 - (a) advise licensees under public communications service licences on all aspects of the services authorised by its licences, including the nature and diversity of their programmes, the suitability of programmes for Niue, the

- hours of transmission of the services, and the amount of any fee that the licensee may charge for the reception of the services; and
- (b) in consultation with licensees under public communications service licences, prepare and subsequently publish a set of programme guidelines for public communications services.
- (3) Programme guidelines may include guidelines relating to—
- (a) material offensive to community standards of behaviour in Niue;
 - (b) the depiction of sexual activities, violence, and use of drugs;
 - (c) the amount of transmission time to be allocated to educational, informational, and religious programmes;
 - (d) the classification of programmes as suitable for transmission at different times of the day.
- (4) For the purposes of subsection (3)(a) and (b), the Programme Advisory Committee may, in consultation with the Censor of Films appointed under the Film and Public Entertainment Act 1979, apply the same guidelines as those applied by the Censor of Films.
- (5) Programme guidelines may also include guidelines relating to—
- (a) the content of advertisements;
 - (b) the products that may or may not be advertised;
 - (c) the amount of transmission time to be allocated to advertisements.

Cabinet requirements

17 Power of Cabinet to require certain transmissions and integration with emergency services

Transmission of communications in national interest or emergency

- (1) When required to do so by the Cabinet, a provider must make its communications service available to transmit any programme or other matter the Cabinet considers to be in the national interest.
- (2) A provider must not be required to make its service available under subsection (1) for more than 3 hours in any 24-hour period.
- (3) During a period of national emergency proclaimed under section 2 of the Public Emergency Act 1979,—
 - (a) the limitation referred to in subsection (2) does not apply; and
 - (b) the provider must make a communications service, a communications network, or associated equipment, that is under its control available including to authorised officers of the Government to transmit any matter that the Cabinet considers necessary.
- (4) The powers of the Cabinet under this section do not include power to require a provider to transmit any programme or other matter that could reasonably be interpreted as promoting or opposing—
 - (a) the election of a candidate as a member of the Assembly; or
 - (b) a particular point of view in relation to an issue or a matter that is being submitted to the electorate in an election of members of the Assembly.

Integration of communications services with Niue's emergency services in emergency

- (5) The Cabinet may require a provider to ensure that the communications service they provide to persons in Niue integrates or has the ability at short notice to integrate with Niue's emergency services.
- (6) A requirement under subsection (5) is to be treated as a condition of a provider's licence under this Act and any failure to comply with the requirement is to be treated as a breach of a condition of the licence.

Directions by Communications Regulator

18 Communication Regulator may give directions

- (1) The Communications Regulator may give a person a direction in respect of all or any of the following:
 - (a) the technical standards and requirements for a communications network or a communications service:
 - (b) the frequencies, power, and location of radiocommunications equipment:
 - (c) the location of the whole or any part of a communications network or a communications service used in connection with a public communications service licence and situated outside land owned or occupied by the licensee.
- (2) However, the power to issue a direction is subject to any direction given to the Communications Regulator by Cabinet relating to the matters in subsection (1)(a) to (c).
- (3) A person who fails to comply with a direction given to them under subsection (1) is guilty of an offence and is liable on conviction to a fine not exceeding 10 penalty units.

Regulations

19 Regulations (Part 2)

The Cabinet may make regulations for carrying out this Part and, without limiting the generality of that power, regulations may provide for—

- (a) eligibility criteria for licences under sections 7 and 8:
- (b) conditions that apply to licences under sections 7 and 8:
- (c) specifications relating to communications networks including technical and operational matters relating to specific licences or each or both of the licences under sections 7 and 8 or with more general application, for example, the following:
 - (i) spectrum allocation:
 - (ii) cross-border connectivity or coordination:
 - (iii) emergency service integration:
- (d) fees for operating a communications network under section 6(2) or (3):
- (e) fees for the grant or renewal of any licence:
- (f) periodic fees (for example an annual fee) payable for operating a communications network under section 6(2) or (3) or receiving signals under section 6(3):
- (g) a method of calculating fees under paragraphs (d) to (f):
- (h) exemptions from charges and fees:
- (i) the number of persons in a private group under section 6(2):

- (j) the prevention of harmful interference with any communications network or any signals transmitted to, from, or within Niue;
- (k) conditions upon which persons may subscribe to a communications service;
- (l) requirements for providers to provide official communications to the public when required under section 17;
- (m) offences for breach of the regulations and penalties not exceeding 5 penalty units for those offences.

Part 3

Requirements on Providers

20 Application

This Part applies to the following:

- (a) a provider of a communications service under a licence given under section 7 or 8;
- (b) to the extent provided in regulations, a provider outside Niue.

21 Requirements on providers

(1) A provider must—

- (a) operate in a fair and transparent manner when dealing with consumers including when billing them; and
- (b) provide equitable access to communications services, for example, to people who have disabilities or who live in remote areas of Niue; and
- (c) keep all personal and commercial information about its consumers confidential; and
- (d) set up an informal dispute resolution scheme for dealing with complaints by and disputes with consumers and regularly publicise the availability of the scheme to consumers; and
- (e) share access to government-owned assets and infrastructure in accordance with any requirements set by the Government; and
- (f) operate in a manner that promotes innovation and sustainable investment in the provision of communications services, for example, investment in new technologies; and
- (g) comply with relevant standards in the Communications Services Quality Code and provide quarterly reports to the Communications Regulator on the provider's operation under, and compliance with, each of those standards; and
- (h) operate in a manner that develops and supports the retention in Niue personnel with technical skills relating to the provision and maintenance of communications services and communications networks.

(2) Subsection (1)(c) does not apply if—

- (a) disclosure is sought by the Niue Police acting under a warrant;
- (b) the Cabinet has required disclosure from a particular provider in either of the following circumstances:
 - (i) a period of national emergency has been proclaimed under section 2 of the Public Emergency Act 1979;

- (ii) for reasons of national security.
- (3) The reports required by subsection (1)(g) must include details of any complaints or disputes relating to relevant standards dealt with in the reporting period.
- (4) If the Communications Regulator considers that publication of a provider's quarterly report is in the public interest, they may require the provider to publish it in Vagahau Niue or English or both on an internet site maintained by the provider and available to the public free of charge.
- (5) In this section, **relevant standards** means the standards that apply to a particular provider because—
 - (a) the standards apply to all providers; or
 - (b) the standards were applied to the provider's licence when it was granted (*see* section 28(4)).

22 Regulations (Part 3)

The Cabinet may make regulations for carrying out this Part and, without in any way limiting the generality of that power, those regulations may provide for—

- (a) further requirements for the matters listed in section 21(1);
- (b) setting limits on the activities of providers when providing communications services, for example, on the retention of personal or commercial information by them;
- (c) offences for breach of the regulations and penalties not exceeding 5 penalty units for those offences.

Part 4

Communications Regulator and Regulatory Office, Communications Services Quality Code, and dispute resolution

Communications Regulator

23 Appointment of Communications Regulator

- (1) There must be a Communications Regulator in the Regulatory Office.
- (2) The Communications Regulator must be appointed by the NPSC.
- (3) No person may be appointed as the Communications Regulator unless, in the opinion of the NPSC, that person is qualified for appointment, having regard to the following:
 - (a) the functions and powers of the Communications Regulator; and
 - (b) the functions and powers of the Regulatory Office related to communications and communications services.
- (4) For the purposes of subsection (3), a person is **qualified for appointment** by virtue of that person's knowledge of, or experience in, the communications industry or any other industry, commerce, economics, law, accountancy, public administration, or consumer affairs.
- (5) The NPSC may appoint a person as an Acting Communications Regulator to perform the functions and powers of the Communications Regulator for any period when the Communications Regulator is absent from Niue or otherwise unable to perform their role. Subsections (3) and (4) apply to the appointment of an Acting Communications Regulator.

- (6) The NPSC must not appoint a person to be a Communications Regulator or an Acting Communications Regulator if that person—
 - (a) is an owner, shareholder, director, or officer of, or hold a senior management role in, a provider or an entity associated with a provider; or
 - (b) is an owner, shareholder, director, or officer of, or hold a senior management role in, an entity (**entity A**) that is involved with the manufacture or supply or maintenance of any part of a communications network or another entity (**entity B**) associated with entity A; or
 - (c) derives income or any other benefit from an entity described in paragraph (a) or (b).

24 Communications Regulator must act independently

The Communications Regulator must act independently when performing their functions and exercising their powers, including from—

- (a) the Cabinet, subject to section 18(2); and
- (b) a provider owned in full or in part by the Government; and
- (c) private providers.

25 Functions and powers of Communications Regulator

(1) The functions of the Communications Regulator are to—

- (a) oversee the performance of the functions and powers of the Regulatory Office relating to communications networks and communications services;
- (b) oversee the implementation of this Act;
- (c) develop a Communications Services Quality Code (*see* section 28);
- (d) issue guidelines on the code;
- (e) monitor providers' service quality against the provisions of this Act;
- (f) issue remediation plans for non-compliance with this Act;
- (g) conduct audits and inspections;
- (h) conduct investigations and take enforcement action for non-compliance with this Act or a licence;
- (i) provide advice relating to communications policy to the Minister;
- (j) establish a process for issuing licences under this Act;
- (k) issue licences and monitor the use of those licences by licensees, including compliance with any conditions on a licence or relevant specifications;
- (l) develop, in consultation with providers and consumers, requirements for communications services and communications networks;
- (m) establish and implement a plan for use of any spectrum or other thing related to the provision of communications services and monitor the implementation of the plan;
- (n) publish procedures and guidelines relating to the requirements of this Act;
- (o) investigate and determine complaints against providers and licensees that cannot be resolved by dispute resolution;
- (p) participate in relevant international organisations and meetings;
- (q) maintain records of the administration and implementation of this Act;

- (r) other functions provided by this Act.
- (2) The Communications Regulator must provide an annual report to the Minister giving details of the performance in the relevant year of the functions listed in subsection (1) and other functions provided for in this Act.
- (3) The annual report must be tabled in the Assembly by the Minister as soon as practicable after the Minister receives it.

26 Delegation by Communications Regulator

- (1) The Communications Regulator may delegate any of their functions and powers (except this power of delegation and the oversight function in section 25(1)(a)) to a senior employee of the Regulatory Office. This power of delegation does not affect the responsibility of the Communications Regulator for the performance of a function or exercise of a power that is delegated.
- (2) A delegation must be in writing and may be revoked at any time in writing.
- (3) A delegation does not prevent the Communications Regulator from also performing the function or exercising the power that is the subject of the delegation.

Regulatory Office

27 Functions of Regulatory Office

The Regulatory Office has the following functions relating to communications and communications services:

- (a) assisting the Communications Regulator to perform their functions;
- (b) providing administrative support to the Communications Regulator;
- (c) establishing a dispute resolution scheme for consumers in consultation with the Communications Regulator.

Communications Services Quality Code

28 Communications Services Quality Code

- (1) The Communications Regulator may develop, in consultation with providers and consumers, a Communications Services Quality Code (the **code**).
- (2) The code must be prescribed in regulations.
- (3) The code must set out specific standards relating to the provision of communications services. Unless specified otherwise in the code, a standard applies to all licences, licensees, and communications services.
- (4) However, a standard may contain 2 or more different options for compliance with it, 1 or more of which may be applied to a particular licence on the grant of the licence.
- (5) A licensee must comply with the code, including an option for compliance with a standard applied to the licence under subsection (4).
- (6) The Communications Regulator may amend, replace, or revoke a standard, or add a new standard to the code, in consultation with providers and consumers.
- (7) Consultation under this section must, at a minimum, allow providers and consumers to comment on a proposed standard or an amended standard or the replacement or revocation of a standard, within a specified time frame.
- (8) The code must—

- (a) be published on an internet site maintained by or on behalf of the Regulatory Office and be accessible to the public free of charge; and
- (b) be available in hard copy at the office of the Communications Regulator for inspection by members of the public.

29 Content of code

The code may deal with any of the following activities of a provider, so far as those relate to the provision of communications services:

- (a) advertising and promotion, including the offering of discounts, rebates, gifts, or incentives:
- (b) the supply, connection, and use of consumer equipment, including the right of consumers to use consumer equipment supplied by a third party:
- (c) the nature, extent, and availability of information about the pricing, quality, features, functions, or use of (including any restrictions on the use of) a communications service or an item of consumer equipment:
- (d) terms that must be included in a contract for supply of a communications service, including any circumstances in which a term may be waived or modified:
- (e) limits on the waiver of a consumer service guarantee:
- (f) the nature, extent and availability to consumers of information, by means of SMS, email alerts, or online metering, regarding their use of a communications service (including an international roaming service) and the credit consumed or charges incurred in using a service:
- (g) outbound telemarketing or email marketing:
- (h) point-of-sale activities:
- (i) billing, including requirements for itemised billing, and retention of documents, instruments, and papers concerning communications services and consumer equipment provided to consumers:
- (j) the circumstances in which a communications service can be suspended or disconnected by a provider, and procedures for suspension and disconnection:
- (k) transfer of consumers between providers:
- (l) services for consumers with disabilities or serious medical conditions or who live in remote areas:
- (m) services to low-income consumers or consumers with poor credit ratings:
- (n) credit policy, including checking of credit ratings with, or reporting credit problems to, third parties:
- (o) complaint and dispute resolution processes for consumers.

Dispute resolution

30 Dispute resolution

- (1) This section applies if the parties to a complaint or dispute agree to attempt to resolve their differences by dispute resolution.
- (2) Information provided for, and statements made in the course of, dispute resolution are not admissible in a court.

- (3) If dispute resolution is unsuccessful, the Communications Regulator may undertake or continue an audit, inspection, or investigation under sections 32 to 34.

Regulations

31 Regulations (Part 4)

The Cabinet may make regulations for carrying out this Part and, without in any way limiting the generality of that power, those regulations may provide for—

- (a) the code:
- (b) charges or fees for action taken by the Regulatory Office or the Communications Regulator under this Part, for example, relating to dispute resolution:
- (c) exemptions from charges or fees:
- (d) a method of calculating fees under paragraph (b):
- (e) offences for breach of the regulations and penalties not exceeding 5 penalty units for those offences.

Part 5

Monitoring, enforcement, and offences

Monitoring, investigations, and search power

32 Audits

- (1) In order to undertake monitoring of the requirements of this Act, the code, and a provider's licence, the Communications Regulator may conduct an audit of 1 or more of the following by giving notice in writing of an audit:
 - (a) the communications service provided by a provider:
 - (b) the communications network operated by them:
 - (c) the provider's licence.
- (2) A provider must facilitate an audit, including by—
 - (a) providing copies of records and other information requested in the notice; and
 - (b) providing those records and information by the date stated in the notice; and
 - (c) giving assistance and implementing measures reasonably required by the Communications Regulator to facilitate the audit.
- (3) The Communications Regulator may issue rules and guidelines specifying any of the following:
 - (a) the manner in which audits will be conducted:
 - (b) the notice period required before an audit:
 - (c) the obligations of providers in relation to audits:
 - (d) the consequences of non-compliance with audit requirements.
- (4) Rules and guidelines issued under subsection (3) must—
 - (a) be published on an internet site maintained by or on behalf of the Regulatory Office and be accessible to the public free of charge; and

- (b) be available in hard copy at the office of the Communications Regulator for inspection by members of the public.
- (5) Providers must comply with the rules.

33 Inspections

- (1) In order to undertake monitoring of the requirements of this Act, the code, and a provider's licence, the Communications Regulator may conduct an inspection of 1 or more of the following:
 - (a) the provider's premises;
 - (b) the communications service provided by the provider;
 - (c) the communications network operated by the provider;
 - (d) any facilities, records, information, systems, or equipment relating to the communications service or associated communications network;
 - (e) the provider's licence.
- (2) The Communications Regulator need not give notice of an inspection and may issue any directions that are reasonably required to ensure that all relevant information is made available to them when undertaking the inspection.
- (3) A provider must facilitate an inspection by—
 - (a) allowing reasonable access to premises, facilities, records, information, systems, equipment, and personnel; and
 - (b) giving assistance and implementing measures reasonably required by the Communications Regulator to facilitate the inspection, including providing copies of documents or extracts from documents; and
 - (c) complying with any directions issued under subsection (2).
- (4) The Communications Regulator may issue rules or guidelines specifying any of the following:
 - (a) the manner in which inspections will be conducted;
 - (b) the notice period for inspections on notice;
 - (c) the obligations of providers in relation to inspections;
 - (d) the consequences of non-compliance with directions and other requirements under this section.
- (5) Rules and guidelines issued under subsection (4) must—
 - (a) be published on an internet site maintained by or on behalf of the Regulatory Office and be accessible to the public free of charge; and
 - (b) be available in hard copy at the office of the Communications Regulator for inspection by members of the public.
- (6) Providers must comply with the rules.

34 Investigations

- (1) This section applies however a matter becomes known to the Communications Regulator, whether through a complaint, an audit, an inspection, or other means.
- (2) If it appears to the Communications Regulator, on reasonable grounds, that a provider has breached or may breach this Act, the code, or its licence, they may commence a formal investigation into the matter.

- (3) If the matter has not been the subject of dispute resolution and the Communications Regulator considers that may resolve the matter, they may refer it to dispute resolution before commencing an investigation.

35 Search power

- (1) If the High Court, on application by the Communications Regulator, is satisfied on the basis of a sworn statement that there are reasonable grounds to suspect that there may be in a place anything that may be material as evidence in proving a breach of, or an offence under, this Act, the court may issue a warrant authorising a Police officer or another person the court considers appropriate, with such assistance as may be necessary, to enter the place to search for and seize the thing.
- (2) The person executing the warrant may search and break open, if necessary, anything in, on, or under the place to locate the thing or things referred to in the warrant and may seize—
 - (a) that thing or those things; and
 - (b) anything else found during the search that may be material as evidence in proving a breach of, or an offence under, this Act.
- (3) A person who seizes anything under the warrant must, either at the time of seizure or as soon as practicable after doing so,—
 - (a) make a list of what has been seized, with the date and time of seizure; and
 - (b) give a copy of that list to the occupier or owner of the place.

Enforcement by Communications Regulator

36 Cease and desist order for breach of Act, code, or licence

- (1) If the Communications Regulator considers, on reasonable grounds, that a provider appears to have breached this Act, the code, or its licence they may issue a cease and desist order to that provider.
- (2) The provider must comply with the order by immediately taking steps to remedy the breach.
- (3) An order must—
 - (a) specify the relevant provision of this Act, the relevant standard, or the relevant part of its licence; and
 - (b) require the provider to take steps to remedy the breach; and
 - (c) specify a date by which the breach must be remedied; and
 - (d) specify a date or dates by which the provider must provide progress reports to the Communications Regulator.
- (4) The Communications Regulator may amend the dates referred to in subsection (3)(c) or (d) if they consider them to be unreasonable in the circumstances.
- (5) An order ceases to apply only when the Communications Regulator is satisfied that the breach has been remedied.

37 Remediation plans for breach of code

- (1) If, following a formal investigation, the Communications Regulator determines that a provider has breached 1 or more standards in the code, they may require the provider to prepare and implement a remediation plan to remedy the breach.

- (2) The provider must provide a draft of the remediation plan (the **draft plan**) to the Communications Regulator for approval by the date required by the Communications Regulator.
- (3) The draft plan must include a timetable for implementation and the timetable must include a date or dates by which the provider will report back to the Communications Regulator on the implementation of the plan.
- (4) The Communications Regulator may require the provider—
 - (a) to provide further information relating to the draft plan by the date required by the Communications Regulator; and
 - (b) to amend the draft plan, including relating to the timetable for implementation, in accordance with instructions from the Communications Regulator; and
 - (c) to include additional dates for reporting to the Communications Regulator on progress of the implementation of the plan.
- (5) Following the approval of a plan by the Communications Regulator, the provider must implement it to the satisfaction of the Communications Regulator by the date stated in it.

Offences

38 Providing communications services other than in accordance with Act

A person who provides, or attempts to provide, or takes any preparatory step to provide a communications service contrary to this Act, a licence issued under this Act, or programme guidelines commits an offence and is liable on conviction to,—

- (a) in the case of an individual, a fine not exceeding 5 penalty units;
- (b) in any other case, a fine not exceeding 10 penalty units.

39 Misleading or deceptive conduct

- (1) A provider must not make or cause to be made any claim or representation concerning its communications service or a communications network used by it, or the communications service of or a communications network used by a competing provider, that is misleading or deceptive or likely to mislead or deceive.
- (2) A person who contravenes subsection (1) commits an offence and is liable on conviction to,—
 - (a) in the case of an individual, a fine not exceeding 10 penalty units;
 - (b) in any other case, a fine not exceeding 20 penalty units.

40 Failure to keep personal or commercial information about consumer confidential

A provider who fails to keep personal or commercial information about a consumer confidential (other than as provided in section 21(2)) commits an offence and is liable on conviction to,—

- (a) in the case of an individual, a fine not exceeding 20 penalty units;
- (b) in any other case, a fine not exceeding 30 penalty units.

41 Failure to facilitate audit or inspection or comply with rules, or comply with directions given for inspection

- (1) A person who fails to facilitate an audit under section 32 or an inspection under section 33 or comply with rules made under section 32 or 33 commits an offence and is liable on conviction to,—
 - (a) in the case of an individual, a fine not exceeding 5 penalty units;
 - (b) in any other case, a fine not exceeding 10 penalty units.
- (2) A person who fails to comply with directions given for an inspection under section 33(2) commits an offence and is liable on conviction to,—
 - (a) in the case of an individual, a fine not exceeding 5 penalty units;
 - (b) in any other case, a fine not exceeding 10 penalty units.

42 Failure to comply with cease and desist order or prepare or implement remediation plan

- (1) A person who fails to comply with a cease and desist order under section 36 or who fails to comply with it by the date specified in the order commits an offence and is liable on conviction to,—
 - (a) in the case of an individual, a fine not exceeding 5 penalty units;
 - (b) in any other case, a fine not exceeding 10 penalty units.
- (2) A person who fails to prepare or implement a remediation plan under section 37 or who fails to implement it by the date specified in the plan commits an offence and is liable on conviction to,—
 - (a) in the case of an individual, a fine not exceeding 10 penalty units;
 - (b) in any other case, a fine not exceeding 20 penalty units.

43 Interference with communications network

A person who connects a line, an apparatus, or equipment (whether physically or wirelessly) to any part of a communications network or otherwise interferes with any part of a communications network commits an offence and is liable on conviction to,—

- (a) in the case of an individual, a fine not exceeding 10 penalty units;
- (b) in any other case, a fine not exceeding 20 penalty units.

44 Forfeiture

- (1) If a person is convicted of an offence under this Act, the court may order that any of the following used in connection with that offence be forfeited to the Government:
 - (a) in the case of an offence in connection with a public communications service licence or an associated communications service or communications network, the whole or any part of the communications service, or communications network, in the possession or control of the person;
 - (b) in the case of an offence in connection with a radiocommunications licence or an associated communications service or communications network, the whole or any part of the communications service, or communications network (including the things listed in section 8), in the possession or control of the person.

- (2) Anything forfeited to the Government under subsection (1) becomes the property of the Government, which may retain or dispose of it in any manner it thinks fit.

Regulations

45 Regulations (Part 5)

The Cabinet may make regulations for carrying out this Part and, without in any way limiting the generality of that power, those regulations may provide for—

- (a) charges or fees for action taken by the Regulatory Office or the Communications Regulator under this Part, for example, relating to monitoring;
- (b) exemptions from charges or fees;
- (c) a method of calculating fees under paragraph (a);
- (d) offences for breach of the regulations and penalties not exceeding 5 penalty units for those offences.

Part 6 Postal services

46 Obligation to act in accordance with international agreements

In the administration of this Part, the Cabinet and a postal company must, so far as practicable, act in accordance with any applicable standards, rules, and regulations set by international agreements binding upon Niue.

47 Interpretation

In this Part,—

postal article means any article transmissible by post, including a letter, postcard, packet, package, or telegram that is to be conveyed or otherwise dealt with in the manner of a posted letter

postal company means a company providing postal services under an agreement with the Government of Niue and includes its agents or contractors.

48 Control on carriage of postal articles

A person commits an offence if they carry or convey or cause to be carried or conveyed a postal article for reward unless they are a postal company.

49 Control on creation of postage stamps

A person is guilty of an offence if they create a Niue postage stamp without the authorisation of the Cabinet.

50 Stealing postal articles

A person is guilty of an offence if they steal a postal article in the possession of a postal company.

51 Delaying and interfering with postal articles

- (1) A person is guilty of an offence if they unlawfully open a postal article in the possession of a postal company.
- (2) An officer, employee, or person acting on behalf of a postal company is guilty of an offence if, contrary to their duty, they—

- (a) open or procure or allow to be opened a postal article in the possession of a postal company; or
- (b) wilfully delay or detain a postal article in the possession of a postal company or procure or allow a postal article to be delayed or detained.
- (3) A person who receives from a postal company a postal article not intended for them is guilty of an offence if they wilfully open, keep, detain, or destroy the postal article.

52 Divulging contents of postal articles

- (1) An officer, employee, or person acting on behalf of a postal company is guilty of an offence if they divulge to another person information from, or the contents of, a postal article that is or was in the possession of a postal company and that came to their knowledge in the course of their duties.
- (2) However, subsection (1) does not apply to information or contents that an officer, employee, or person is lawfully entitled or obliged to divulge.

53 Prohibited material

- (1) A person is guilty of an offence if they post a postal article knowing it to contain prohibited material.
- (2) In subsection (1), **prohibited material** means any of the following:
 - (a) explosive, dangerous, or destructive substances or fluids:
 - (b) noxious animals and other noxious things:
 - (c) indecent or obscene writings, pictures, or articles:
 - (d) sharp articles, fluids, or other injurious things when not properly packed.

54 Penalties

A person convicted of an offence under this Part is liable on conviction,—

- (a) in the case of an offence under section 49, to a fine not exceeding 10 penalty units or to imprisonment for a term not exceeding 12 months, or to both:
- (b) in the case of an offence under section 48, 50, 51, or 52, to a fine not exceeding 2 penalty units or to imprisonment for a term not exceeding 6 months, or to both; and
- (c) in the case of an offence under section 53, to a fine not exceeding 2 penalty units.

55 Lawful opening of postal articles

- (1) A person may, if authorised to do so by the Minister, detain and open a postal article in the possession of a postal company that they reasonably believe to contain prohibited material as defined in section 53(2).
- (2) However, a person must not open a postal article under subsection (1) unless they have given the sender and the intended recipient of the article notice of their intention to open the article and a reasonable opportunity for them to be present when they do so.
- (3) Subsection (2) does not apply in relation to a sender or an intended recipient of a postal article who is not in Niue.

- (4) If a postal article opened under this section is found to contain prohibited material, the person authorised under subsection (1) may destroy the article or direct that it be forfeited to the Government or returned to its sender.
- (5) A person is not entitled to compensation for any damage suffered by them as the result of the opening of a postal article under this section.

56 Insufficient postage

- (1) A postal company may refuse to carry a postal article for which insufficient postage has been paid.
- (2) A postal company may refuse to deliver a postal article for which insufficient postage has been paid except upon payment of any prescribed surcharge.

57 Regulations (Part 6)

The Cabinet may make regulations for carrying out this Part and, without in any way limiting the generality of that power, regulations may provide for—

- (a) fees or charges for the carriage of postal articles:
- (b) a method of calculating fees under paragraph (a):
- (c) offences of breach of the regulations and penalties not exceeding 5 penalty units for those offences.

Part 7

Niue ICT Advisory Committee

58 Interpretation

In this Part,—

ccTLD means country code Top Level Domain

electronic addressing means the use of any scheme for organising, distributing, or assigning any type of symbolic reference, name, address, or code that is pertinent to the transfer of information within and between information systems, including but not exclusive to internet addressing schemes, including those referred to by ISO 3166

ISO 3166 means Standard 3166 of the International Organization for Standardization

NICTAC has the meaning given in section 60

.nu means the ccTLD two-letter code designated and applying to Niue.

59 Objectives and obligations

- (1) In the administration of this Part, the Cabinet must have regard to the following objectives:
 - (a) facilitating the development of information technology and electronic addressing both within Niue and between Niue and elsewhere:
 - (b) recognising that the ccTLD .nu is a national resource for which the prime authority is the Government of Niue:
 - (c) ensuring that effective means exist to control and supervise the information transmitted or made available by an Appointed Manager of the ccTLD .nu:

- (d) ensuring that the ccTLD .nu is managed consistently with the interests, principles, and standards of the Niuean community and the public policy objectives of the Government.
- (2) In the administration of this Part, the Cabinet must, so far as practicable, act in accordance with any applicable standards, rules, and regulations set by international agreements binding upon Niue.

60 Niue ICT Advisory Committee

- (1) The Niue Information Technology Committee, established under the Communications Act 1989, is continued as the Niue ICT Advisory Committee (NICTAC) and must consist of not less than 3 members nor more than 6 members appointed by the Cabinet.
- (2) The NICTAC is the only designated Registry Manager of the ccTLD .nu.
- (3) The NICTAC must—
 - (a) advise the Cabinet on all matters related to and associated with information technology (not limited to matters referred to in paragraphs (b) to (d)); and
 - (b) advise the Cabinet on all matters related to and associated with the management of the ccTLD .nu; and
 - (c) be responsible for establishing and monitoring any and all contractual relationships entered into relating to the management of the ccTLD .nu; and
 - (d) when and where appropriate, appoint technical and administrative advisors.
- (4) The Cabinet may give written directions to the NICTAC in relation to its advisory role.

61 Appointed Managers of electronic addressing

- (1) The Cabinet, on the advice of the NICTAC, may appoint, for the purposes of this Part, 1 or more individuals or associations to manage electronic addressing in relation to a specified kind of listed carriage services utilising the ccTLD .nu (each person or association being an **Appointed Manager**).
- (2) An Appointed Manager is not a public servant and an individual appointed to the role must not also work as a public servant while holding the role of Appointed Manager.
- (3) The Cabinet must not make an appointment of, or reappoint, a particular person or association unless—
 - (a) the NICTAC recommends that the Cabinet to do so; and
 - (b) the NICTAC is of the opinion that the person or association will or is managing electronic addressing in accordance with the interests, principles, and standards of the Niuean community and the public policy of the Government.

61A Prohibition on Unauthorised Management of the ccTLD .nu

- (1) A person or legal entity must not act as the Manager of the ccTLD .nu or carry out any function related to the management, administration, operation, or commercial exploitation of the ccTLD .nu unless they are-

- (a) the NICTAC, acting in its capacity as the designated Registry Manager under section 60(2); or
 - (b) a Manager, acting within the scope of their appointment under section 61; or
 - (c) a person or legal entity acting on behalf of the NICTAC or a Manager in accordance with a contractual relationship established under section 60(3)(c).
- (2) A person or legal entity who intentionally or recklessly contravenes subsection (1) commits an offence and is liable on conviction to-
- (a) in the case of an individual, a fine not exceeding 1,000,000 penalty units;
 - (b) in the case of a legal entity, a fine not exceeding 5,000,000 penalty units.

61B Cabinets Power to Enforce Control over the ccTLD .nu

- (1) If the Cabinet is satisfied that a person or legal entity who is not authorised under section 61A is acting as the Manager of the ccTLD .nu or is otherwise carrying out any unauthorised function described in section 61A(1), the Cabinet may, by written notice, require that person or legal entity to immediately cease and desist all such activities.
- (2) A notice issued under subsection (1) must specify the reasons why the person's or legal entity's actions are considered unauthorised, and the date by which the activities must cease.
- (3) A person or legal entity who fails to comply with a notice given under subsection (1) is guilty of an offence and is liable on conviction to a fine not exceeding 100,000 penalty units for every day the failure continues.

61C Right of Oversight and Monitoring of the ccTLD .nu Management

- (1) The NICTAC, acting in its capacity as the designated Registry Manager under section 60(2), has the right to exercise oversight over, and monitor, the performance of any Manager or any other person or legal entity acting under a contractual relationship established under section 60(3)(c).
- (2) The right of oversight and monitoring under subsection (1) includes the authority to-
 - (a) require and access any records, accounts, financial statements, and technical data related to the management, administration, operation, or commercial exploitation of the ccTLD .nu;
 - (b) conduct audits and inspections of the Manager's or contractual entity's systems, operations, and premises related to the ccTLD .nu;
 - (c) issue directions to the Manager or contractual entity concerning compliance with the interests, principles, and standards of the Niuean community; the public policy objectives of the Government, and any contractual terms.
- (3) A Manager or any other person or legal entity subject to oversight under this section must fully facilitate the exercise of the right of oversight and monitoring, including complying with any direction or request issued by the NICTAC or the Cabinet for this purpose.
- (4) A person or legal entity who intentionally or recklessly contravenes subsection (3) commits an offence and is liable on conviction to the penalties set out in section 61A(2).

61D Mandatory Data Replication for National Security and International Compliance

- (1) For the purposes of this section, “Responsible Operator” means any person or legal entity who currently or hereafter performs, or purports to perform, the functions of:
 - (a) overall management of the ccTLD .nu, or
 - (b) technical registry operations of the ccTLD .nu, including holding or administering the database and critical keys.
- (2) The Responsible Operator must establish and continually maintain a secure, operational replication of all essential ccTLD data in a secure, neutral jurisdiction approved by the Cabinet and in compliance with the relevant international data protection standards.
- (3) The Responsible Operator must provide the Government of Niue or any entity explicitly designated by the Cabinet, on the advice of the NICTAC, with the technical and physical means to assume exclusive operational control over the replicated data and systems at short notice for the purposes of national security or compliance with the international obligations of Niue.
- (4) The replicated data must be synchronised in near real time and include, but is not limited to:
 - (a) the complete, current DNS zone file;
 - (b) the full primary domain registration database (RDBMS);
 - (c) all cryptographic keys necessary for DNS Security Extensions (DNSSEC) to maintain the domains integrity; and
 - (d) all root zone access and security keys necessary for the Government of Niue to assume full operational control of the ccTLD .nu at short notice.
- (5) The Responsible Operator must ensure that the NICTAC, or another entity designated by Cabinet, has full audit and monitoring capability over the replicated data and systems, and must comply with all Cabinet directions regarding technical standards, frequency of replication, and security protocols.
- (6) Failure by a Responsible Operator to comply with subsection (1) or a Cabinet direction issued under subsection (5) constitutes a breach of this Act, and the Responsible Operator is liable on conviction to the penalties set out in section 61A(2).

62 Cabinet may give directions to Appointed Manager of electronic addressing

- (1) The Cabinet may, by written notice given to an Appointed Manager, direct them to do, or refrain from doing, a specified act or thing relating to electronic addressing in connection with a relevant carriage service utilising the ccTLD .nu.
- (2) The Cabinet may not give a direction under this section unless, in the opinion of the Cabinet, the issues pertaining to the electronic addressing are of public importance to the Niuean community.
- (3) In determining whether the electronic addressing is of public importance, the Cabinet must have regard to the extent to which the addressing is of significant social or economic importance to—
 - (a) providers; and
 - (b) end-users of carriage services.

- (4) Subsection (3) does not limit the matters to which the Cabinet may have regard.
- (5) Before giving a direction under this section, the Cabinet must consult the NICTAC.
- (6) A person must comply with a direction given under this section.
- (7) A person who intentionally or recklessly contravenes subsection (6) commits an offence and is liable on conviction by a fine not exceeding 50,000 penalty units.

63 Delegation of powers

The Cabinet may delegate all or any of its powers vested under this Part to the NICTAC.

Part 8

Miscellaneous provisions

Regulations generally

64 Regulations generally

- (1) The Cabinet may make regulations for the purposes of this Act.
- (2) In particular, and without limiting the generality of that power or any other provision of this Act, regulations may be made for any of the following purposes:
 - (a) prescribing forms to be used for the purposes of this Act;
 - (b) fees or charges for services provided by the Government;
 - (c) a method of calculating fees or charges;
 - (d) exemptions from fees or charges;
 - (e) providing for any other matters contemplated by this Act, necessary for its full administration, or necessary for giving it full effect.

Repeals and amendments

65 Communications Act 1989 repealed

The Communications Act 1989 (1989/131) is repealed.

66 Amendments to other Acts

The Acts listed in the Schedule are amended as set out in that schedule.

Transitional and savings provisions

67 Transitional provision for service providers

- (1) A person who operated a communications network or who provided communications services in Niue immediately before the commencement of this Act and who wishes to continue doing so, must apply for the relevant licence or licences under this Act within 6 months from that date or a date prescribed in regulations.
- (2) A person described in section 6(2) or (3) may continue to operate a communications network without paying a fee for the period ending 2 months from the date on which regulations that prescribe the fee are made.

68 Transitional provision for persons appointed under Communications Act 1989

A person appointed to any of the following roles under the Communications Act 1989 is to be treated as having been appointed to the role under this Act until the expiry of the term for which they were appointed:

- (a) a member of the Programme Advisory Committee:
- (b) a member of the Niue Information Technology Committee (as a member of the Niue ICT Advisory Committee):
- (c) an Appointed Manager.

69 Savings

The following regulations are saved and are to be treated as if made under this Act:

- (a) Radio Regulations 1972 (SR 1972/128):
- (b) Telephone Regulations 1968 (SR 1968/25).

Schedule Amendments to Acts

Broadcasting Act 1989 (1989/132)

In section 3(2), replace “Communications Act 1989” with “Communications Act 2026”

In section 35(1), replace “pursuant to section 13 of the Communications Act 1989” with “under section 16 of the Communications Act 2026”

Replace section 36(1) with:

“(1) After considering any relevant guidelines made under section 16 of the Communications Act 2026, the Corporation may transmit advertisements through any of its services.”

Companies Act 2006 (2006/275)

In Schedule 1, clause 1, definition of **broadcasting**, replace “telecommunication” with “communication (as defined in the Communications Act 2026)”

In Schedule 1, clause 1, definition of **essential service**, paragraph (e), replace “Telecommunications services:” with “communications services (as defined in the Communications Act 2026):”

In Schedule 1, clause 1, delete the definition of **telecommunications services**

Interpretation Act 2004 (2004/269)

In section 26(9), replace “telecommunication” with “communication (as defined in the Communications Act 2026)”

Niue Consumption Tax Act 2009 (2007/296)

In section 2, insert in its appropriate alphabetical order:

“**communication** has the meaning given in the Communications Act 2026”

In section 2, replace the definition of **telecommunications services** with:

“**communications services** means services providing communications and includes—

(a) the related transfer or assignment of the right to use capacity for transmission, conveyance, or reception of communications; and

(b) the provision of access to global or local information networks:

but does not include the supply of the underlying writing, images, sounds, or information”

In section 5(1)(g), replace “telecommunications” with “communications”

In section 5(1)(g)(i), replace “telecommunications” with “communications” in each place

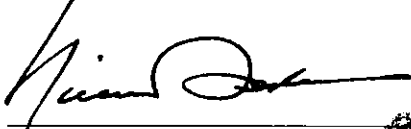
In section 12(3) to (8), replace “telecommunications” with “communications”

Tobacco Control Act 2018 (2018/345)

In section 4, definition of **broadcast**, replace “telecommunication” with
“communication (as defined in the Communications Act 2026)”

I, Hina 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 12th day of March 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 Regulatory Office.
This Act was passed by the Niue Assembly on the 11th day of March 2026.
