

Biological Weapons Convention

(2) Each State Party to this Convention undertakes to co-operate in carrying out any investigation which the Security Council may initiate, in accordance with the provisions of the Charter of the United Nations, on the basis of the complaint received by the Council. The Security Council shall inform the States Parties to the Convention of the results of the investigation.

ARTICLE VII

Each State Party to this Convention undertakes to provide or support assistance, in accordance with the United Nations Charter, to any Party to the Convention which so requests, if the Security Council decides that such Party has been exposed to danger a result of violation of the Convention.

ARTICLE VIII

Nothing in this Convention shall be interpreted as in any way limiting or detracting from the obligations assumed by any State under the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on 17 June 1925.

ARTICLE IX

Each State Party to this Convention affirms the recognised objective of effective prohibition of chemical weapons and, to this end, undertakes to continue negotiations in good faith with a view to reaching early agreement on effective measures for the prohibition of their development, production and stockpiling and for their destruction, and on appropriate measures concerning equipment and means of delivery specifically designed for the production or use of chemical agents for weapons purposes.

ARTICLE X

(1) The State Parties to this Convention undertake to facilitate, and have the right to participate in, the fullest possible exchange of equipment, materials and scientific and technological information for the use of bacteriological (biological) agents and toxins for peaceful purposes. Parties to the Convention in a position to do so shall also co-operate in contributing individually or together with other States or international organisations to the further development and application of scientific discoveries in the field of bacteriology (biology) for the prevention of disease, or for other peaceful purposes.

(2) This Convention shall be implemented in a manner designed to avoid hampering the economic or technological development of States Parties to the Convention or international co-operation in the field of peaceful bacteriological (biological) activities, including the international exchange of bacteriological (biological) agents and toxins and equipment for the processing, use or production of bacteriological (biological) agents and toxins for peaceful purposes in accordance with the provisions of the Convention.

ARTICLE XI

Any State Party may propose amendments to this Convention. Amendments shall enter into force for each State Party accepting the amendments upon their acceptance by a majority of the States Parties to the Convention and thereafter for each remaining State Party on the date of acceptance by it.

ARTICLE XII

Five years after the entry into force of this Convention, or earlier if it is requested by a majority of Parties to the Convention by submitting a proposal to this effect to the Depositary Governments, a conference of States Parties to the Convention shall be held at Geneva, Switzerland, to review the operation of the Convention, with a view to assuring that the purposes of the preamble and the provisions of the Convention, including the provisions concerning negotiations on chemical weapons, are being realised. Such review shall take into account any new scientific and technological developments relevant to the Convention.

ARTICLE XIII

(1) This Convention shall be of unlimited duration.

(2) Each State Party to this Convention shall in exercising its national sovereignty have the right to withdraw from the Convention if it decides that extraordinary events, related to the subject matter of the Convention, have jeopardised the supreme interests of its country. It shall give notice of such withdrawal to all other States Parties to the Convention and to the United Nations Security Council three months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardised its supreme interests.

ARTICLE XIV

(1) This Convention shall be open to all States for signature. Any State which does not sign the Convention before its entry into force in accordance with paragraph 3 of this Article may accede to it at any time.

(2) This Convention shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics and the United States of America, which are hereby designated the Depositary Governments.

(3) This Convention shall enter into force after the deposit of instruments of ratification by twenty-two Governments, including the Governments designated as Depositaries of the Convention.

(4) For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Convention, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

(5) The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or of accession and the date of the entry into force of this Convention, and of the receipt of other notices.

(6) This Convention shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations.

ARTICLE XV

This Convention, the English, Russian, French, Spanish and Chinese texts of which are equally authentic, shall be deposited in the archives of the Depositary Governments. Duly certified copies of the Convention shall be transmitted by the Depositary Governments to the Governments of the signatory and acceding States.

APPROPRIATION (ANNUAL) ACT 2018

2018/343 – 24 August 2018

An Act to appropriate certain sums of money out of the Niue Assembly account to the services for the year ending 30th of June 2019 and to appropriate the supplies granted in that year.

1 Title

This is the Appropriation (Annual) Act 2018.

2 Commencement

(1) This Act shall relate to the financial year ending on the 30th day of June 2019 (hereinafter referred to as “the financial year”).

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

3 Grant and Appropriation of Expenditure

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

(a) for Recurrent Operational Expenditure, Capital Projects and Investment and Development Projects a sum of which does not exceed \$26,138,000 in total; and

(b) for development partner Investment and Development projects a sum which does not exceed \$18,250,000 in total

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

Schedule A

TABLE 1: 2018-19 BUDGET SUMMARY

(\$'000)	Voted 2017-18	Actual 2017-18	Estimate 2018-19
Total Niue Recurrent Revenues	-28,157	-24,622	-26,138
Total Niue Recurrent Expenses	28,414	24,427	25,326
Total Niue Funded Capital	100	21	100
Niue Funded I&D	812	377	712
Total Appropriation	29,326	24,825	26,138
Niue Budget Surplus/Deficit	1,169	203	0
Donor I&D Revenue	-9,670	-5,536	-18,250
Donor I&D Expenditure	9,670	5,536	18,250
Total Revenue	-37,827	-30,158	-44,388
Total Expenses	38,996	30,361	44,388
Surplus (-ve) / Deficit (+ve)	1,169	203	0

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

Appropriation 2018

Schedule B

GOVERNMENT OF NIUE 2018-19 BUDGET RECURRENT EXPENDITURE BY MINISTRIES				
Entity	Department	2017-18 Voted	2017-18 Actual	2018-19 Estimate
CENTRAL AGENCIES	Premiers Department	2,348,000	2,432,417	2,479,000
	Crown Law	399,000	376,358	398,000
	Niue Public Service Commission and Secretariat	1,326,000	1,204,774	1,295,000
	Finance and Planning	5,494,000	1,825,901	1,351,000
	Project Management Coordination Unit	287,000	245,802	291,000
	Police	610,000	534,593	733,000
	Sub total: Central agencies		10,464,000	6,619,845
MINISTRY OF SOCIAL SERVICES	Education Department	2,721,000	2,651,429	2,773,000
	Health Departmet	2,290,000	2,406,563	2,407,000
	Justice Department (Inc Com Affairs)	4,033,000	4,024,373	4,369,000
	Taoga Niue	272,000	217,479	305,000
	Sub total: Ministry of Social Services	9,316,000	9,299,844	9,854,000
MINISTRY OF NATURAL RESOURCES	DAFF	899,000	762,866	885,000
	Environment Department	332,000	316,527	319,000
	Met Office	202,000	177,836	204,000
	Sub total: Ministry of Natural Resources	1,433,000	1,257,229	1,408,000
MINISTRY OF INFRASTRUCTURE	Utilities	862,000	786,308	829,000
	Transport	1,497,000	1,220,013	1,346,000
	Sub total: Ministry of Infrastruture	2,359,000	2,006,321	2,175,000
COMMERCIAL AND TRADING	Niue Tourism Authority	477,000	375,914	356,000
	Bulk Fuel	4,365,000	4,868,167	4,986,000
	Sub total: Commercial and Trading	4,842,000	5,244,081	5,342,000
TOTAL RECURRENT EXPENDITURE		28,414,000	24,427,319	25,326,000

GOVERNMENT OF NIUE 2018-19 BUDGET RECURRENT REVENUE BY MINISTRIES				
Entity	Department	2017-18 Voted	2017-18 Actual	2018-19 Estimate
CENTRAL AGENCIES	Premiers Department	-2,000	-2,852	-4,000
	Crown Law	0	-738	-1,000
	Niue Public Service Commission and Secretariat	0	0	0
	Finance and Planning	-19,390,000	-16,152,082	-16,726,000
	Project Management Coordination Unit	-301,000	0	-206,000
	Police	-183,000	-156,970	-183,000
	Sub total: Central agencies	-19,876,000	-16,312,641	-17,120,000
MINISTRY OF SOCIAL SERVICES	Education Department	-5,000	-4,809	-6,000
	Health Department	-45,000	-50,824	-59,000
	Justice Department (Inc Com Affairs)	-105,000	-60,867	-113,000
	Taoga Niue	-7,000	-6,166	-27,000
	Sub total: Ministry of Social Services	-162,000	-122,666	-205,000
MINISTRY OF NATURAL RESOURCES	DAFF	-1,198,000	-1,317,907	-1,309,000
	Environment Department	-1,000	-2,865	-1,000
	Met Office	-2,000	-560	-1,000
	Sub total: Ministry of Natural Resources	-1,201,000	-1,321,332	-1,311,000
MINISTRY OF INFRASTRUCTURE	Utilities	-38,000	-9,077	-11,000
	Transport	-1,632,000	-1,570,217	-1,857,000
	Sub total: Ministry of Infrastruture	-1,670,000	-1,579,294	-1,868,000
COMMERCIAL AND TRADING	Niue Tourism Authority	-48,000	-26,652	-48,000
	Bulk Fuel	-5,200,000	-5,259,470	-5,586,000
	Sub total: Commercial and Trading	-5,248,000	-5,286,123	-5,634,000
TOTAL RECURRENT REVENUE		-28,157,000	-24,622,057	-26,138,000

Niue Legislation Supplement 2016-2019

Schedule C

GOVERNMENT OF NIUE 2018-19 BUDGET

RECURRENT EXPENDITURE BY VOTE & NNSP PILLAR					
DEPARTMENTS	VOTE	NNSP Pillar	2017/18 Voted	2017/18 Actual	2018/19 Estimate
TREASURY	Finance	1. Fin. Stability	\$4,854,000	\$1,284,323	\$766,000
TREASURY	Taxation	1. Fin. Stability	\$0	\$0	\$0
		1. Fin. Stability Total	\$4,854,000	\$1,284,323	\$766,000
PREMIERS	Corporate Services	2. Governance	\$317,000	\$357,319	\$324,000
PREMIERS	Cabinet Services	2. Governance	\$616,000	\$683,939	\$637,000
PREMIERS	Legislature	2. Governance	\$809,000	\$733,261	\$847,000
PREMIERS	Niue High Commission	2. Governance	\$227,000	\$216,564	\$256,000
PREMIERS	External Affairs	2. Governance	\$379,000	\$441,335	\$415,000
CROWN LAW	Crown Law Office	2. Governance	\$399,000	\$376,358	\$396,000
NPSC and Secretariat	Corporate Services/HRMIS	2. Governance	\$864,000	\$808,903	\$841,000
NPSC and Secretariat	Strategic Human Resource	2. Governance	\$70,000	\$71,944	\$69,000
NPSC and Secretariat	Manpower Supplementation	2. Governance	\$115,000	\$125,571	\$122,000
TREASURY	Customs (fly Customs/Taxatic	2. Governance	\$341,000	\$323,621	\$349,000
DAFF	Quarantine	2. Governance	\$128,000	\$128,834	\$136,000
JUSTICE	Administraton & Registry	2. Governance	\$184,000	\$171,899	\$206,000
JUSTICE	Civil/Criminal Court	2. Governance	\$70,000	\$68,392	\$84,000
JUSTICE	Land Court	2. Governance	\$105,000	\$108,318	\$112,000
POLICE	Administration	2. Governance	\$510,000	\$487,805	\$544,000
POLICE	Prison	2. Governance	\$35,000	\$23,509	\$61,000
POLICE	Disaster Management	2. Governance	\$65,000	\$43,278	\$128,000
PMCU	Project Management Unit	2. Governance	\$287,000	\$245,802	\$291,000
TREASURY	Statistics and Immigration	2. Governance	\$151,000	\$170,156	\$177,000
		2. Governance Total	\$5,670,000	\$5,566,607	\$5,997,000
TREASURY	Economic Development	3. Econ. Dev.	\$148,000	\$47,801	\$59,000
TRANSPORT	Civil Aviation	3. Econ. Dev.	\$272,000	\$213,486	\$251,000
TRANSPORT	Rescue Fire Services	3. Econ. Dev.	\$258,000	\$205,277	\$242,000
NPSC and Secretariat	Employment Relations	3. Econ. Dev.	\$61,000	\$37,110	\$47,000
DAFF	Administration	3. Econ. Dev.	\$319,000	\$333,691	\$306,000
DAFF	Fisheries	3. Econ. Dev.	\$146,000	\$46,450	\$118,000
DAFF	Crop Research & Animal Hea	3. Econ. Dev.	\$165,000	\$128,411	\$170,000
DAFF	Crop Extension Services	3. Econ. Dev.	\$89,000	\$71,685	\$92,000
JUSTICE	Land Management	3. Econ. Dev.	\$275,000	\$200,077	\$287,000
UTILITIES	Administration	3. Econ. Dev.	\$194,000	\$161,206	\$167,000
UTILITIES	Regulatory and Compliance U	3. Econ. Dev.	\$180,000	\$127,752	\$178,000
UTILITIES	Water Supply	3. Econ. Dev.	\$488,000	\$497,351	\$484,000
TRANSPORT	Maritime	3. Econ. Dev.	\$42,000	\$30,563	\$35,000
TOURISM	Tourism Authority	3. Econ. Dev.	\$477,000	\$375,914	\$356,000
		3. Econ. Dev. Total	\$3,114,000	\$2,476,783	\$2,792,000
NPSC and Secretariat	Human Resource Developme	4. Social	\$216,000	\$161,246	\$218,000
COMMUNITY AFFAIRS	Administration	4. Social	\$368,000	\$266,491	\$373,000
COMMUNITY AFFAIRS	Community Devel. & Social W	4. Social	\$3,031,000	\$3,209,397	\$3,307,000
EDUCATION	National Library	4. Social	\$52,000	\$19,284	\$75,000
EDUCATION	Administration	4. Social	\$756,000	\$788,851	\$793,000
EDUCATION	Niue Primary School	4. Social	\$727,000	\$656,879	\$650,000
EDUCATION	Niue High School	4. Social	\$1,186,000	\$1,188,416	\$1,255,000
HEALTH	Administration	4. Social	\$505,000	\$584,159	\$578,000
HEALTH	Medical	4. Social	\$684,000	\$775,037	\$734,000
HEALTH	Nursing	4. Social	\$505,000	\$457,072	\$492,000
HEALTH	Public Health	4. Social	\$389,000	\$360,751	\$385,000
HEALTH	Dental	4. Social	\$207,000	\$229,543	\$218,000
		4. Social Total	\$8,626,000	\$8,695,126	\$9,076,000
DAFF	Forestry	5. Environ.	\$54,000	\$63,795	\$63,000
ENVIRONMENT	Administration	5. Environ.	\$332,000	\$316,527	\$319,000
MET SERVICE	Administration	5. Environ.	\$202,000	\$177,836	\$204,000
		5. Environ. Total	\$588,000	\$548,158	\$586,000
TAOGA NIUE	Administration	6. Taoga Niue	\$272,000	\$217,479	\$305,000
		6. Taoga Niue Total	\$272,000	\$217,479	\$305,000
BULK FUEL	Bulk Fuel	3. Econ. Dev.	\$4,365,000	\$4,868,167	\$4,986,000
TRANSPORT	Transport Administration	3. Econ. Dev.	\$120,000	\$105,705	\$124,000
TRANSPORT	Outside Services	3. Econ. Dev.	\$597,000	\$500,462	\$499,000
TRANSPORT	Heavy Plant	3. Econ. Dev.	\$208,000	\$164,449	\$195,000
		Trading Operations	\$5,290,000	\$5,638,844	\$5,804,000
TOTAL RECURRENT EXPENDITURE			\$28,414,000	\$24,427,319	\$25,326,000

Appropriation 2018

Schedule C

GOVERNMENT OF NIUE 2018-19 BUDGET

RECURRENT REVENUE BY VOTE & NNSP PILLAR						
DEPARTMENTS	VOTE	NNSP Pillar	2016/17 Voted	2017/18 Actual	2018/19 Estimate	
TREASURY	Finance	1. Fin. Stability	-\$12,110,000	-\$7,863,366	-\$8,565,000	
TREASURY	Taxation	1. Fin. Stability	-\$6,107,000	-\$5,505,048	-\$6,307,000	
		1. Fin. Stability Total	-\$18,217,000	-\$13,368,415	-\$14,862,000	
PREMIERS	Corporate Services	2. Governance	\$0	-\$1,000	-\$1,000	
PREMIERS	Cabinet Services	2. Governance	\$0	\$0	\$0	
PREMIERS	Legislature	2. Governance	\$0	\$0	-\$1,000	
CROWN LAW	Crown Law Office	2. Governance	\$0	-\$738	-\$1,000	
PREMIERS	Niue High Commission	2. Governance	-\$2,000	-\$1,856	-\$2,000	
PREMIERS	External Affairs	2. Governance	\$0	\$4	\$0	
NPSC and Secretariat	Corporate Services/HRMIS	2. Governance	\$0	\$0	\$0	
NPSC and Secretariat	Strategic Human Resource	2. Governance	\$0	\$0	\$0	
NPSC and Secretariat	Manpower Supplementation	2. Governance	\$0	\$0	\$0	
TREASURY	Customs (fly Customs/Taxatic	2. Governance	-\$1,141,000	-\$2,741,897	-\$1,828,000	
DAFF	Quarantine	2. Governance	-\$22,000	-\$13,935	-\$28,000	
JUSTICE	Administration & Registry	2. Governance	-\$15,000	-\$19,796	-\$15,000	
JUSTICE	Civil/Criminal Court	2. Governance	-\$10,000	-\$5,277	-\$10,000	
JUSTICE	Land Court	2. Governance	-\$15,000	-\$9,758	-\$15,000	
POLICE	Administration	2. Governance	-\$183,000	-\$156,970	-\$183,000	
POLICE	Prison	2. Governance	\$0	\$0	\$0	
PMCU	Project Management Unit	2. Governance	-\$301,000	\$0	-\$206,000	
TREASURY	Statistics and Immigration	2. Governance	-\$32,000	-\$41,770	-\$35,000	
		2. Governance Total	-\$1,721,000	-\$2,992,993	-\$2,325,000	
TREASURY	Economic Development	3. Econ. Dev.	\$0	\$0	-\$1,000	
TRANSPORT	Civil Aviation	3. Econ. Dev.	-\$508,000	-\$441,349	-\$508,000	
TRANSPORT	Fire and Rescue	3. Econ. Dev.	-\$12,000	-\$14,595	-\$12,000	
DAFF	Administration	3. Econ. Dev.	-\$14,000	-\$13,175	-\$14,000	
DAFF	Fisheries	3. Econ. Dev.	-\$1,130,000	-\$1,279,253	-\$1,240,000	
DAFF	Crop Research & Animal Hea	3. Econ. Dev.	-\$5,000	-\$10,645	-\$13,000	
DAFF	Crop Extension Services	3. Econ. Dev.	-\$24,000	-\$420	-\$11,000	
JUSTICE	Land Management	3. Econ. Dev.	-\$65,000	-\$26,035	-\$73,000	
UTILITIES	Administration	3. Econ. Dev.	-\$30,000	\$0	\$0	
UTILITIES	Building & Engineering	3. Econ. Dev.	-\$2,000	-\$2,930	-\$5,000	
TRANSPORT	Maritime	3. Econ. Dev.	-\$400,000	-\$469,893	-\$400,000	
UTILITIES	Water Supply	3. Econ. Dev.	-\$6,000	-\$6,147	-\$6,000	
TOURISM	Tourism Authority	3. Econ. Dev.	-\$48,000	-\$26,652	-\$48,000	
		3. Econ. Dev. Total	-\$2,244,000	-\$2,291,095	-\$2,331,000	
EDUCATION	National Library	4. Social	-\$1,000	\$0	-\$1,000	
EDUCATION	Administration	4. Social	-\$1,000	-\$2,145	-\$1,000	
EDUCATION	Niue Primary School	4. Social	-\$1,000	\$0	-\$1,000	
EDUCATION	Niue High School	4. Social	-\$2,000	-\$2,664	-\$3,000	
HEALTH	Administration	4. Social	-\$45,000	-\$40,412	-\$50,000	
HEALTH	Medical	4. Social	\$0	-\$5,389	-\$6,000	
HEALTH	Public Health	4. Social	\$0	-\$1,911	\$0	
HEALTH	Dental	4. Social	\$0	-\$2,398	-\$3,000	
		4. Social Total	-\$50,000	-\$55,633	-\$65,000	
DAFF	Forestry	5. Environ.	-\$3,000	-\$478	-\$3,000	
ENVIRONMENT	Administration	5. Environ.	-\$1,000	-\$2,885	-\$1,000	
MET SERVICE	Administration	5. Environ.	-\$2,000	-\$560	-\$1,000	
		5. Environ. Total	-\$6,000	-\$3,903	-\$5,000	
TAOGA NIUE	Administration	6. Taoga Niue	-\$7,000	-\$6,166	-\$27,000	
		6. Taoga Niue Total	-\$7,000	-\$6,166	-\$27,000	
BULK FUEL	Bulk Fuel	3. Econ. Dev.	-\$5,200,000	-\$5,259,470	-\$5,586,000	
TRANSPORT	Outside Services	3. Econ. Dev.	-\$700,000	-\$644,381	-\$925,000	
TRANSPORT	Heavy Plant	3. Econ. Dev.	-\$12,000	\$0	-\$12,000	
		Trading Operations	-\$5,912,000	-\$5,903,851	-\$6,523,000	
		TOTAL RECURRENT REVENUE	\$28,157,000	\$24,622,057	\$25,138,000	
		RECURRENT OPERATIONAL SURPLUS/(DEFICIT)	-\$257,000	\$194,737	\$812,000	
		GON RECURRENT CAPITAL EXPENDITURE	-\$100,000	-\$21,172	-\$100,000	
		GON RECURRENT INVESTMENT & DEVELOPMENT PROJECTS	-\$812,000	-\$377,253	-\$712,000	
		GON BUDGET BALANCE (ve = Deficit, -ve = Surplus)	\$1,169,000	-\$203,688	\$0	

ASIAN DEVELOPMENT BANK MEMBERSHIP ACT 2018

2018/344 – 25 December 2018

1	Title	9	Authority to issue non-negotiable or non-interest bearing notes
2	Commencement		
	PART 1		PART 4
	<i>Preliminary Matters</i>		<i>Incorporation of Certain Provisions into Law</i>
3	Interpretation	10	Incorporation of certain provisions into law
4	Act binds the Government		
	PART 2		PART 5
	<i>Authorization for Membership in the Asian Development Bank</i>		<i>Government's Power to Carry out Obligations</i>
5	Authority to accept membership	11	Authority to issue directives
6	Authority to execute and deposit instruments		
7	Designated channel of communication		PART 6
			<i>General and Miscellaneous Provisions</i>
	PART 3	12	Regulations
	<i>Financial Provisions</i>		
8	Authority to borrow, acquire and pay		SCHEDULE

An Act to provide for the membership of Niue to the Asian Development Bank.

1 Title

This Act is the Asian Development Bank Membership Act 2018.

2 [Spent]

PART 1

Preliminary Matters

3 Interpretation

In this Act, unless the context otherwise requires,
"ADB" means the Asian Development Bank
"the Charter" means the Agreement establishing the Asian Development Bank.

4 Act binds the Government

This Act binds the Government.

PART 2

Authorization for Membership in the Asian Development Bank

5 Authority to accept membership

Cabinet is authorized on behalf of Niue to accept membership in the Asian Development Bank (ADB) by accepting the Agreement Establishing the Asian Development Bank (the Charter) which is set out in the Schedule, and by accepting the terms and conditions of the Resolution of the Board of Governors of ADB, relating to the membership of Niue in ADB (the Resolution).

6 Authority to execute and deposit instruments

Cabinet is authorized to execute and deposit any instrument of acceptance and other documents that may be required for accepting membership in ADB.

7 Designated channel of communication

Cabinet shall designate a channel of communication as required under Article 38.1 of the Charter.

PART 3

Financial Provisions

8 Authority to borrow, acquire and pay

Cabinet is authorized to borrow or otherwise acquire, by any appropriate means, and to pay on behalf of Niue, the amounts that are payable from time to time to ADB under the terms and conditions of the Resolution and under the Charter.

9 Authority to issue non-negotiable or non-interest bearing notes

Cabinet is authorized to issue, in accordance with the Charter, any non-negotiable, non-interest bearing notes which may be necessary or appropriate in respect of Niue's membership in ADB.

PART 4

Incorporation of Certain Provisions into Law

10 Incorporation of certain provisions into law

Articles 48 through 58 of the Charter are hereby incorporated into this Act and shall have the force of law in Niue.

PART 5

Government's Power to Carry out Obligations

11 Authority to issue directives

Cabinet is authorized to issue any directives to do all things necessary to comply with the Charter and the terms and conditions of the Resolution and to carry out the obligations of Niue to ADB.

PART 6

General and Miscellaneous Provisions

12 Regulations

- (1) Cabinet may make regulations for the purposes of this Act.
- (2) In particular, regulations may be made for all or any of the following purposes—
 - (a) prescribing forms to be used for the purposes of this Act;
 - (b) providing for any other matters contemplated by this Act, necessary for its full administration, or necessary for giving it full effect,

SCHEDULE

[Not reproduced. See <https://www.adb.org/documents/agreement-establishing-asian-development-bank-adb-charter>]

TOBACCO CONTROL ACT 2018

2018/345 – 25 December 2018

1	Title	
2	Commencement	
		PART 1
		PRELIMINARY MATTERS
3	Interpretation	
4	Purpose	
5	Act binds the Government	
		PART 2
		TOBACCO PRODUCT CONTROLS
6	The commercial growing of tobacco is prohibited	
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An Act to provide for the control of the distribution, promotion, sale and use of tobacco products in Niue.

1 Title

This is the Tobacco Control Act 2018.

2 Commencement

(1) Subject to subsections (2) to (4), this Act comes into force on 25 December 2018.

(2) Sections 17 to 26, 28 to 31, 43 to 48, and 56 to 61 of this Act come into force on 25 June 2019.

(3) Sections 6 to 16 and 33 to 42 of this Act come into force on 25 December 2019.

PART 1

PRELIMINARY MATTERS

3 Purpose

The purposes of this Act are to—

- (a) protect the health of the people of Niue from the diseases caused by tobacco use and tobacco smoke;
- (b) reduce the social approval of tobacco use in Niue by applying controls on the manufacture, importation, packaging, labelling, marketing, advertising and promotion of tobacco products and their association through sponsorship with other products and events or activities;
- (c) protect the health of young persons by restricting access to tobacco products;
- (d) promote the accurate portrayal of the health and social consequences of tobacco use;
- (e) enhance awareness of the hazards of tobacco use by ensuring the effective communication of accurate and relevant information about tobacco use;
- (f) reduce some of the harmful effects of tobacco products by monitoring and regulating the presence of harmful substances in tobacco products and in tobacco smoke;
- (g) protect individuals from the hazards of involuntary exposure to tobacco smoke; and
- (h) facilitate Niue's compliance with, and implementation of, the WHO Framework Convention on Tobacco Control by implementing necessary legislative controls.
- (i) restrict the types of engagement between government agencies and the tobacco industry that are allowed.

4 Interpretation

In this Act, unless the context otherwise requires —

“additive” means a substance that forms part of a tobacco product that is not cured tobacco leaf; and includes—

- (a) a substance forming part of the product that has been derived or refined from tobacco leaf (whether cured or not); and
- (b) any substance that is introduced into a tobacco product during processing, manufacturing, or packaging, including, as applicable, those contained in the paper, filter, portion pouch or similar part of the tobacco product;

“brand variant” means a tobacco product distinguishable from other tobacco products by any means, including the following—

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- (a) the tobacco product is sold under different brand names;
 - (b) the tobacco product is sold under the same brand name, but differs in one or more of the following ways:
 - (i) containing or not containing menthol;
 - (ii) being otherwise differently flavoured;
 - (iii) producing different quantities of tar, nicotine, carbon monoxide or other constituents;
 - (iv) allegedly differing in "mildness";
 - (v) having or not having filter tips or cork tips;
 - (vi) being sold in retail packages containing different numbers of pieces; or
 - (vii) being of different length or mass;
- “broadcast” means the transmission of programmes, whether or not encrypted, by radio waves or other means of telecommunication for reception by the public by means of broadcasting receiving apparatus;
- “children’s product” means a product (including comics, books, games, and toys) marketed primarily for children and includes sweets, ice cream, soft drinks, and other similar products;
- “cigarette” means a tobacco product comprising a roll of cut tobacco, enclosed in paper;
- “commercial purpose” means exchanging tobacco or tobacco products intended for smoking or consumption for direct or indirect profit whether monetary or not;
- “constituents” means—
- (a) in relation to tobacco products intended for smoking, the chemicals inherent in the product itself, and in the smoke and other products of combustion emitted from the product;
 - (b) in relation to smokeless tobacco products, the chemicals inherent in the product;
- “corporate social responsibility activities” mean any activities promoting the health or welfare of other individuals, the wider community, or the environment; funding community services; activities related to disaster relief; charitable or any other activities that are philanthropic in nature;
- “Department” means the Department of Health;
- “Director” means the Director of Health and includes any person to whom he or she may have delegated his or her powers under this Act in accordance with section 47(4);
- “distribute” means to sell tobacco products and includes manufacturing and importing, but does not include sale by retail;
- “distributor” means a person or agent who sells tobacco products and includes a manufacturer or importer of tobacco products, but does not include a person whose only sale of tobacco products is by way of retail;
- “educational facility” means any school, college, place of learning or instruction and includes any kindergarten or pre-school facility;
- “enclosed”, in relation to a building, structure, location or place, means an area that is covered by a roof or roof-like structure and/or is surrounded by two or more walls or sides; regardless of the materials used for the roof and walls or sides, whether they comprise a permanent or temporary structure, or whether the roof and walls or sides have openings;
- “Enforcement Officer” means an officer who is appointed for the purposes of this Act under section 48;
- “exporter” means any person who sends, or arranges for tobacco products or raw tobacco to be sent from Niue to a point outside of Niue for the purpose of sale or distribution;

- “Government department” includes any government agency or statutory body;
- “health message” means a warning or an explanatory statement about the health effects or social costs of tobacco use, the benefits of, or suggestions for quitting, and any other matter related to tobacco and health, or other adverse effects of tobacco use or exposure, as prescribed by regulations made under the Act;
- “importer” means any person who brings tobacco products or raw tobacco into Niue for the purpose of sale or distribution;
- “licence” means a licence issued under section 7;
- “licensed premises” mean any premises, or any part of any premises, on which liquor may be sold according to any licence (other than a restaurant licence) under the Liquor Act 1975;
- “loose cigarettes” mean cigarettes that are not contained in sealed, unopened a package;
- “loose tobacco” means tobacco, prepared for smoking in hand rolled cigarettes or in a pipe, which is not contained in a sealed, unopened package;
- “manufacture” means to fabricate, produce, process, pack, or label tobacco products for the purpose of sale or distribution;
- “manufacturer” means any person that manufactures, fabricates, produces, processes, packs, or labels tobacco products for the purpose of sale or distribution;
- “Minister” means the Minister of Health;
- “other information”, in connection with a health message means, additional or amplifying information or explanatory material which, as prescribed, is to be displayed or published in conjunction with that health message;
- “package” means any container, wrapper, carton, or other enclosure that contains any tobacco product or in which tobacco products are customarily sold and includes the package’s label;
- “person or any term descriptive of a person” includes a natural person, a corporation sole, a body corporate, and an unincorporated body;
- “point of sale” means a counter or checkout where tobacco products may be bought; and includes a till or cashbox, where tobacco products may be bought, even if it is not at or part of that counter or checkout;
- “prescribed” means as required by regulations made under this Act;
- “promote” in relation to tobacco products or the activities of a seller, means any act or practice that is intended or likely to encourage the purchase or use of any tobacco product or brand or create a positive awareness of, or association with, a tobacco product, brand, manufacturer or seller;
- “public place” means any place (including any ship, aircraft or other vehicle or conveyance used for the purposes of public transport) to which members of the general public or class of the general public ordinarily have access by express or implied invitation or licence, whether by payment or otherwise and includes any building, structure or facility which is either owned or occupied by the Government, but does not include any place or part of it which is primarily used as a private residence, unless otherwise designated by the owner.;
- “public transport vehicle” means any form of transportation that carries passengers for hire or reward by land, air or by sea, whether locally, regionally, or internationally; it also includes government-owned vehicles;
- “publish” means to—
- (a) insert in any book, newspaper or other periodical publication printed, published, or distributed in Niue; or
 - (b) send to any person, by post or otherwise; or
 - (c) deliver to any person or leave upon premises in the occupation of any person;
- or

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- (d) broadcast; or
 - (e) include in any film or video recording; or
 - (f) include in any disk, portable drive, or other similar device capable of storing data, for use with a computer; or
 - (g) disseminate by means of any other electronic medium; or
 - (h) distribute by any means; or
 - (i) display by way of a sign, notice, poster, or other means; or
 - (j) bring to the notice of any person or of the public in Niue in any other manner;
- “raw tobacco” means tobacco that has not been processed or prepared for consumption;
- “restaurant” means any premises, or any part of any premises, where the principal business is the selling of meals or refreshments to the general public for consumption on the premises, whether or not liquor is or may be sold on those premises or that part of those premises; and includes any room or area on a ship where meals or refreshments are provided for passengers to consume;
- “retailer” means a person who sells tobacco products to consumers;
- “sell” includes—
- (a) to barter or exchange; or
 - (b) to offer or expose for sale, barter or exchange; or
 - (c) to supply, or offer to supply, in circumstances in which the supplier derives, or would derive, a direct or indirect pecuniary benefit; or
 - (d) to supply, or offer to supply, gratuitously but with a view to
 - (e) gaining or maintaining customs, or otherwise with a view to commercial gain;
- “seller” means any person who sells any tobacco product or raw tobacco and includes any manufacturer, wholesaler, importer, exporter, retailer, or other distributor;
- “smoking” means inhaling or exhaling the smoke from, or handling, a lighted tobacco product or any other product capable of being smoked;
- “smoke-free” means an area that does not permit or allow smoking;
- “tobacco” means any preparation of the leaves of plants from the genus *Nicotiana* or species *tabacum* used for smoking or chewing and includes all products which contain tobacco in any form and may include all parts and materials, such as filters, rods and similar matter. For the purposes of this Act tobacco also means any waterpipe, shisha, Electronic Nicotine Delivery systems (ENDS) or Electronic Non-Nicotine Delivery systems (ENNDS);
- “tobacco industry” includes any manufacturer of tobacco products as well as any entity or person working to further the interests of any sellers of tobacco products;
- “tobacco product” means any product intended for human consumption which contains tobacco in any form, in an amount that is more than an incidental ingredient or component and includes all parts and materials including filters, rods, portion pouches, and similar matter, as applicable, including loose tobacco but not including raw tobacco. Any product labelled as containing tobacco must be considered, for the purposes of this Act, to be a tobacco product;
- “tobacco product advertisement” means any form of writing, still or moving picture, sign, symbol or other visual image, or any sounds, or any combination of those things (in whatever form that advertisement may be produced, including but not limited to hard copy, soft or electronic form, narrowcast or broadcast) which is either intended to or has the effect of advertising, promoting or giving any form of positive publicity (either directly or indirectly) to any one or more of the following—
- (a) the purchase or use of a tobacco product or a range of tobacco products;
 - (b) the whole or a part of a trade mark of goods which are or include tobacco products;

- (c) the whole or a part of a design of articles which are or include tobacco products;
 - (d) the whole or a part of the name of a person:
 - (i) who is a manufacturer; and
 - (ii) whose name appears on, or on the packaging of, some or all of those products;
any other words (for example, the whole or a part of a brand name) or designs (for example tobacco company logo, or a tobacco brand), or combination of words and designs, that are closely associated with a tobacco product or a range of tobacco products (whether also closely associated with other kinds of products);
- “tobacco sponsorship” means the attribution, acknowledgment, association or identification (in a manner which has the effect, directly or indirectly, of giving publicity (whether to the public, to any section of the public or to any person or group of persons)) of a tobacco manufacturer, seller, brand, or product with, on, or in connection with any one or more of—
- (a) an entertainment, sporting, recreational, educational, cultural, or other public event, activity, or work;
 - (b) a person or team participating in an event, activity or work, including people’s equipment, clothing, vehicle, or accessories;
 - (c) a service provided or contribution made by a tobacco manufacturer or seller;
 - (d) a building, institution, stadium, organisation or other entity which is not a tobacco manufacturer, importer or seller or the business premises of a person;
- “vending machine” means any self-service machine that on the insertion of a coin or token or by any other means dispenses by way of sale tobacco products, whether automatically or with the assistance of the purchaser;
- “waterpipe and shisha” means a form of tobacco consumption that utilizes a single or multi-stemmed instrument to smoke flavoured or non-flavoured tobacco, where smoke is designed to pass through water or other liquid before reaching the smoker;
- “wholesaler” means any person who buys tobacco products and re-sells them to another seller;
- “workplace” means any place (including any private club) in or at which employees, contractors, volunteers, or other persons perform duties of employment, services (paid or unpaid) or other work and includes private offices, common areas, and any other area that generally used by people during the course of their employment or work. Any place or part thereof which is used primarily as a private residence is not to be considered a workplace under this Act;
- “WHO” means the World Health Organization.

5 Act binds the Government

This Act binds the Government.

PART 2

TOBACCO PRODUCT CONTROLS

Commercial growing and manufacturing prohibited

6 The commercial growing and manufacturing of tobacco is prohibited

- (1) A person must not grow tobacco in Niue for a commercial purpose or distribution whether for exchange of goods, money, or the like, or not.
- (2) The onus of proving that tobacco is not being grown for a commercial purpose is on the grower.
- (3) A person must not manufacture tobacco in Niue.

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(4) Any person who fails to comply with subsection (1) commits an offence and is liable on conviction—

- (a) in the case of an individual, to a fine not exceeding 50 penalty units; or
- (b) in any other case, to a fine not exceeding 100 penalty units.

Licensing

7 Licence required for manufacturers, importers, exporters, and other sellers

(1) Unless they hold an appropriate licence issued by the Department of Health under this Act, a person must not—

- (a) import or export any tobacco product or raw tobacco; or
- (b) manufacture any tobacco product; or
- (c) distribute any tobacco product or raw tobacco; or
- (d) sell any tobacco product or raw tobacco.

(2) Any person who fails to comply with subsection (1) commits an offence and is liable on conviction—

- (a) in the case of an individual, to a fine not exceeding 50 penalty units; or
- (b) in any other case, to a fine not exceeding 100 penalty units.

8 Kinds of licence

(1) The Department of Health may issue the following kinds of licence under this Act—

- (a) a licence to import tobacco products or raw tobacco; or
- (b) a licence to export tobacco products or raw tobacco; or
- (c) a licence to manufacture tobacco or tobacco products; or
- (d) a licence to sell tobacco products or raw tobacco as a distributor; or
- (e) a licence to sell tobacco products as a retailer.

(2) The Department of Health must issue separate licences for each premises or location at which one or more of the above activities takes place.

9 How to apply for a licence

(1) Every application for a licence under this Act or for the renewal of a licence under this Act must be made on a form as prescribed by regulations made under this Act.

(2) Every licence application and application for the renewal of a licence must be accompanied by the prescribed information and documents and the prescribed fee.

10 The grounds for issuing or refusing to issue a licence

(1) A licence must not be issued or renewed under this Act unless the Department of Health is satisfied on reasonable grounds that—

- (a) the applicant is a fit and proper person to hold a licence (and where the applicant is a corporation, that the character of the members of the governing body of the corporation make the corporation a fit and proper person to hold a licence); and
- (b) the application complies with all of the relevant requirements of this Act as well as the requirements of the regulations made under this Act; and
- (c) the applicant has not been convicted of two or more offences under this Act within the last year; and
- (d) the applicant has not, without reasonable excuse, breached any conditions imposed on a licence issued under this Act within the last year.

(2) The issue or refusal of a licence is, in all cases, at the absolute discretion of the Department of Health, subject to the provisions of this Act.

(3) If a licence application is refused, the Department of Health must advise the applicant in writing of the reasons for refusal and advise the applicant of his or her right to appeal that decision of the Department under section 59.

11 The term of the licence and the conditions that may be imposed

(1) Subject to section 10, a licence issued under the Act must be renewed annually.

(2) The Department of Health can issue a licence subject to terms, conditions and directions that must either be recorded on the licence or in a direction made under section 47.

12 Suspension of licences

(1) Where the Department of Health is satisfied that a licensee has committed a breach of any of the conditions of a licence issued under this Act, the Department may suspend the licence for any time period as the Department thinks fit.

(2) In notifying a licensee of the decision to suspend a licence, the Department of Health must advise the licensee of the reason for suspension, and advise the applicant of his or her right to appeal that decision of the Department under section 59.

13 Revocation of licences

(1) The Department of Health may revoke a licence granted under this Part if—

- (a) the licensee commits an offence under this Act; or
- (b) the licensee fails to comply with a direction of the Department issued under section 47; or
- (c) the licensee is a corporation and ceases operation; or
- (d) the licensee ceases carrying out the activity to which the licence relates.

(2) In notifying a licensee of the decision to revoke a licence, the Department of Health must advise the licensee of the reason for revocation, and advise the applicant of his or her right to appeal that decision of the Department under section 59.

14 Register of licensees

(1) The Department of Health must keep a register of all licences issued under this Act.

(2) On issuing a licence, the Department of Health must ensure the following information is entered into the register of licences—

- (a) the name and address of the licensee;
- (b) contact details of the licensee;
- (c) the location at or from which the licensee intends to carry out the import, export, manufacture, or sale of tobacco products or raw tobacco; and
- (d) any other information which the Department of Health considers appropriate.

(3) The Department of Health must make available for public inspection, at all reasonable times and free of charge, a list of licences issued and the location at which the import, export, manufacture, or sale of tobacco products and raw tobacco are licensed to take place, and by whom.

15 Display of licence

(1) A licence issued under section 8 must state the location where the activities to be covered by the licence are to take place.

(2) A premises or location must not be used for the import, export, manufacture, or sale of tobacco products or raw tobacco unless a copy of the required licence is displayed as prescribed or directed by the Department of Health.

(3) Any person who fails to comply with subsection (2) commits an offence and is liable on conviction—

- (a) in the case of an individual, to a fine not exceeding 50 penalty units; or
- (b) in any other case, to a fine not exceeding 100 penalty units.

16 Notification of change of details

(1) Any person who holds a licence issued under section 8 must advise the Department of Health at the earliest opportunity of any proposed change to the location at which activities covered by the licence are to take place.

(2) On receipt of a notification under subsection (1), the Department of Health, may:

- (a) reissue the licence with the changed location endorsed if the remaining term of the licence is less than six months, or
- (b) require a new licence application to be submitted if the remaining term of the licence is greater than six months.

(3) Any person who fails to comply with subsection (1) commits an offence and is liable on conviction—

- (a) in the case of an individual, to a fine not exceeding 50 penalty units; or
- (b) in any other case, to a fine not exceeding 100 penalty units.

Advertising, promotion and sponsorship of tobacco products

17 Prohibition on tobacco and tobacco product advertising

(1) A person must not, whether for any direct or indirect benefit or on behalf of another person:

- (a) publish, or arrange for any other person to publish, whether in Niue or elsewhere, any tobacco product advertisement;
- (b) display, exhibit, announce, broadcast or telecast, or cause or permit to be displayed, exhibited; announced, broadcast, or telecast, or authorize the display, exhibition, announcement, broadcast or telecast to the public of, a tobacco product advertisement;
- (c) sell or distribute, or cause or permit to be sold or distributed, or authorize the sale of, any film, video, magazine or other printed material, that contains a tobacco product advertisement;
- (d) distribute, or cause or permit to be distributed, or authorize the distribution, to the public of any leaflet, handbill, or document that is a tobacco product advertisement; or
- (e) print or publish, or cause or permit to be printed or published; or authorize the printing or publication, of a tobacco product advertisement in any printed publication, book, magazine, leaflet, handbill, newspaper or other printed matter intended for the public;

(2) A person who resides in, or operates from, Niue must not display, export or publish any tobacco product advertisement so that it can be viewed by persons resident in another country.

(3) Any person who fails to comply with subsection (1) commits an offence and is liable on conviction—

- (a) in the case of an individual, to a fine not exceeding 100 penalty units; or.
- (b) in any other case, to a fine not exceeding 250 penalty units.

18 The activities that are not tobacco product advertisements

The following are not tobacco product advertisements under this Act—

- (a) depictions of tobacco products or tobacco use in media where the depiction is purely incidental or is justified by reasons of historical accuracy or legitimate journalistic or artistic expression, or where the depiction is required for educational purposes, provided no payment or other consideration was offered or made by a tobacco manufacturer or seller, or any person acting on their behalf, unless-
 - (i) the principal purpose of the book, magazine, newspaper, broadcast, telecast, film, or video recording is the promotion of the use of a tobacco product;
 - (ii) the book, magazine, newspaper, film, or video recording is intended for sale, distribution, or exhibition primarily in Niue;
 - (iii) in the case of a tobacco product advertisement in any radio or television transmission, the advertisement is targeted primarily at a Niue audience; and
- (b) genuine political, social, or scientific commentary about tobacco products or tobacco use, provided no payment or other consideration was offered or made by a tobacco manufacturer or seller, or any person acting on their behalf.

19 Permitted activities

The prohibition in section 17 does not apply to—

- (a) plain black-and-white text-only price list made available where tobacco products are legally sold, provided the list contains nothing more than the tobacco product brand name and variant, package quantity, price, and any government-required or authorized information required in any regulations made under this Act;
- (b) product information made accessible to persons within the tobacco trade who need the information for trading decisions, and only to the extent access is limited to those persons;
- (c) tobacco manufacturers' newsletters destined for and distributed only to the manufacturer's employees, contractors, suppliers, and other tobacco-related business partners, and only to the extent their distribution is limited to such persons and not visible to the public; and
- (d) information that is necessary for business administration or for required corporate reporting but only to the extent access is limited to the person(s) who need to receive it for business administration or corporate reporting.

20 Display of tobacco products prohibited

(1) A person must not –

- (a) display or cause the display of tobacco products at a point of sale of retail outlets at which tobacco products are sold or offered for sale in Niue;
- (b) expose tobacco products for sale or visible from outside the place of business; and

(2) Any person who fails to comply with subsection (1) commits an offence and is liable on conviction—

- (a) in the case of an individual, to a fine not exceeding 50 penalty units or;
- (b) in any other case, to a fine not exceeding 100 penalty units.

21 ‘Smoking Kills’ signage at point of sale of tobacco products

(1) A tobacco product retailer must clearly display, in close proximity to the point of sale and/or any place a tobacco product price list is posted, a rectangular sign, no smaller than 50 cm x 100 cm, with the words “Smoking Kills”—

- (a) in English and Niuean; and
- (b) printed in black on a white background; and
- (c) clearly legible from at least 5 metres away; and
- (d) any further requirements as prescribed under regulations made under this Act.

(2) Any person who fails to comply with subsection (1) commits an offence and is liable on conviction—

- (a) in the case of an individual, to a fine not exceeding 50 penalty units; or
- (b) in any other case, to a fine not exceeding 100 penalty units.

22 Prohibition against brand stretching

(1) A person must not advertise, display for sale or distribution, sell, or distribute any goods which are not a tobacco product, or any service, in any manner or form that contains any writing, picture, image, graphic, message, or other matter, in whole or part, that is commonly identified or associated with, or is likely or intended to be identified or associated with, a tobacco product, brand, trademark, or brand name of a tobacco product or manufacturer.

(2) A person must not display any name, writing, picture, image, graphic, message, or other matter, in whole or part, that is commonly identified or associated with, or is likely or intended to be identified or associated with, a tobacco brand, trademark, or seller on a building, including a club, restaurant, stadium, or other place which is not primarily a business that imports, manufactures, or sells tobacco products.

(3) Any person who fails to comply with this section commits an offence and is liable on conviction—

- (a) in the case of an individual, to a fine not exceeding 100 penalty units; or
- (b) in any other case, to a fine not exceeding 250 penalty units.

23 Prohibition against reverse brand stretching

(1) A person must not use the brand name, trademark, or other sign, symbol, logo, or similar visual matter, in whole or in part, commonly associated with a non-tobacco product on a tobacco product.

(2) A person must not manufacture or distribute any product designed for or likely to appeal to children or minors that evokes, or is likely to evoke, an association with a tobacco product or brand, including but not limited to candy cigarettes and similar products.

(3) Any person who fails to comply with this section commits an offence and is liable on conviction—

- (a) in the case of an individual, to a fine not exceeding 100 penalty units; or
- (b) in any other case, to a fine not exceeding 250 penalty units.

24 Tobacco sponsorship prohibited

(1) A person must not provide any tobacco sponsorship, which may promote, or cause to be promoted by any other person, any tobacco product or seller through direct or indirect means.

(2) A person must not promote, or cause to promote by any other person, a tobacco product or a tobacco product-related brand element through direct or indirect means, including through sponsorship of an organization, service, physical establishment or vehicle of any kind, or event, whether publicly attributable or not.

(3) Any person who fails to comply with this section commits an offence and is liable on conviction—

- (a) in the case of an individual, to a fine not exceeding 100 penalty units; or
- (b) in any other case, to a fine not exceeding 250 penalty units.

25 Corporate social responsibility activities

(1) Tobacco industry or any person or entity acting on their behalf, must not provide funding or any other form of support for any corporate social responsibility activities which have the direct or indirect aim or effect of the tobacco industry receiving public recognition for that support.

(2) Any person who fails to comply with this section commits an offence and is liable on conviction—

- (a) in the case of an individual, to a fine not exceeding 100 penalty units; or
- (b) in any other case, to a fine not exceeding 250 penalty units.

26 Prohibited payments and engagements

(1) A person representing tobacco industry must not make any payment, contribution, or provide any assistance, either directly or indirectly, to any political party, politician, or person who holds or seeks public office, or any member of (or candidate for election to) the Niue Assembly, or any village council member or any other community leader.

(2) A person representing tobacco industry must not offer to enter into a partnership, whether binding, enforceable or not with Government.

(3) A person representing tobacco industry must not offer assistance (whether monetary or not) to implement or enforce tobacco control policies such as, but not limited to providing tobacco control signage, conduct inspections or raids.

(4) Any person who fails to comply with this section commits an offence and is liable on conviction—

- (a) in the case of an individual, to a fine not exceeding 100 penalty units or;
- (b) in any other case, to a fine not exceeding 250 penalty units.

Controls on sales of tobacco products

27 Sale of tobacco products to persons under 21 prohibited

(1) A person must not sell or supply a tobacco product to a person younger than 21 years of age.

(2) Any person who wishes to sell or supply a tobacco product to a person who is 21 years of age or older must take reasonable precautions and exercise due diligence to establish that the intending purchaser is 21 years of age or older.

(3) It is not a defence in proceedings against a person who it is alleged sold or supplied a tobacco product to a person aged under 21 years, that that seller or supplier believed the person aged under 21 years was purchasing the tobacco on behalf of a parent or other adult.

(4) Every person who sells by retail a tobacco product must display clearly for the public a notice stating that the sale of tobacco products to people who are younger than 21 years is prohibited.

(5) Any notice under subsection (4) must comply with any requirements that may be prescribed in regulations made under this Act.

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(6) Any person who fails to comply with this section commits an offence and is liable on conviction—

- (a) in the case of an individual, to a fine not exceeding 50 penalty units; or
- (b) in any other case, to a fine not exceeding 100 penalty units.

28 Restrictions on the sale of tobacco products in small quantities

(1) A person must not —

- (a) sell by retail; or
- (b) offer to sell for sale by retail —
 - (i) loose cigarettes; or
 - (ii) loose tobacco,

commits an offence.

(2) A manufacturer, importer, distributor, or retailer must not sell or offer for sale —

- (a) cigarettes in a package that contains fewer than 20 cigarettes; or
- (b) loose tobacco or chewing tobacco in a package that contains less than 30 grams of tobacco.

(3) Any person who fails to comply with this section commits an offence and is liable on conviction—

- (a) in the case of an individual, to a fine not exceeding 50 penalty units; or
- (b) in any other case, to a fine not exceeding 100 penalty units.

29 Tobacco products not to be advertised or labelled as suitable for chewing

(1) A person must not promote a tobacco product in a manner which directly states or indirectly suggests the product is suitable for chewing or for any other oral use (other than smoking).

(2) A person must not import for sale, sell, pack, or distribute any tobacco product labelled or otherwise described as suitable for chewing, or for any other oral use (other than smoking).

(3) Any person who fails to comply with this section commits an offence and is liable on conviction—

- (a) in the case of an individual, to a fine not exceeding 50 penalty units; or
- (b) in any other case, to a fine not exceeding 100 penalty units.

30 Vending machine sales and other methods of unsupervised tobacco sales prohibited

(1) A person must not place, or cause or permit to be placed, a vending machine for sale of tobacco products or use by members of the public in any place within Niue;

(2) A person must not sell, supply or cause the sale or supply of tobacco products by post, courier, the Internet or other form of delivery or means by which the age of the purchaser or recipient of the tobacco product cannot be verified.

(3) The sale of a tobacco product on the Internet is deemed to take place in the country where the computer used by the person who orders the tobacco product is located.

(4) Any person who fails to comply with this section commits an offence and is liable on conviction—

- (a) in the case of an individual, to a fine not exceeding 50 penalty units; or
- (b) in any other case, to a fine not exceeding 100 penalty units.

31 Sales of tobacco products prohibited in certain places

- (1) A person must not sell or otherwise distribute tobacco products in any—
- (a) Government facility;
 - (b) place where health care or rehabilitation services are rendered;
 - (c) childcare facility;
 - (d) educational facility serving persons aged under 21 years;
 - (e) sports or athletic facility;
 - (f) church or place of religious worship; or
 - (g) public place to which the public has access as designated by regulations made under this Act.
- (2) Any person who fails to comply with this section commits an offence and is liable on conviction—
- (a) in the case of an individual, to a fine not exceeding 50 penalty units; or
 - (b) in any other case, to a fine not exceeding 100 penalty units.

32 Free distribution, promotional discounts, and rewards prohibited

- (1) A person must not—
- (a) distribute any tobacco product free, at a reduced charge, or in exchange for an opinion or the like;
 - (b) supply any tobacco product to any person for distribution free, at a reduced charge, or in exchange for an opinion or the like; or
 - (c) in the case of a retailer, supply any tobacco product to any person for the purpose of that retailer's business free or at a reduced charge,
- (2) A person must not, in connection with the sale of a tobacco product, or for the purpose of promoting the sale of a tobacco product, supply to the purchaser of a tobacco product or any other person—
- (a) a prize, gift or other benefit; or
 - (b) a stamp, coupon, token, voucher, ticket or other thing by virtue of which the purchaser or any other person may become entitled to, or may qualify for a prize, gift or other benefit (whether the entitlement or qualification is absolute or conditional); or
 - (c) any thing which, or a copy or facsimile of which, is a necessary prerequisite to participation in, or is likely to confer an advantage in, any game, contest or other activity in which a participant may become entitled to, or may qualify for, a prize, gift, or other benefit (whether the entitlement or qualification is absolute or conditional).
- (3) Any person who fails to comply with this section commits an offence and is liable on conviction—
- (a) in the case of an individual, to a fine not exceeding 50 penalty units; or
 - (b) in any other case, to a fine not exceeding 100 penalty units.

Tobacco Product Contents, Emissions, Testing and Reporting

33 Controls on the content and emissions of tobacco products

- (1) A person must not manufacture, import, export, sell or otherwise distribute any tobacco product that does not comply with the requirements regulating the additives; ingredients; constituents; and product design characteristics, features, or attributes of tobacco products, or standards on matters regarding the safety, quality, performance, emissions and other attributes of tobacco products, in each case as prescribed by regulations made under this Act.

(2) Any person who fails to comply with this section commits an offence and is liable on conviction—

- (a) in the case of an individual, to a fine not exceeding 100 penalty units; or
- (b) in any other case, to a fine not exceeding 250 penalty units.

34 Testing required

(1) Every importer or manufacturer of a tobacco product must at least once in each calendar year provide, at their own expense, in accordance with any regulations made under this Act –

- (a) the results of testing of the constituents of each brand and brand variant of the tobacco product sold in Niue by the importer or manufacturer, and the respective quantities of those constituents; and
- (b) the results of testing of the smoke (emissions) of each brand and brand variant of the tobacco product sold in Niue by the importer or manufacturer and the respective quantities of those constituents;

to the Department of Health as is required by regulations made under this Act.

(2) Regulations made under this Act may set out the details of what tests are to be carried out, suitability criteria for any laboratory to undertake any testing of tobacco products required, and the means by which the results of these tests are to be reported to the Department of Health.

(3) In addition to the annual tests required by subsections (1) and (2), the Department of Health may, by notice in writing to the manufacturer or importer of a product to which that section applies, require a further test or tests to be conducted.

(4) The further test or tests must be conducted, in accordance with any prescribed regulations and with the product samples collected from the manufacturer, importer or retailer by an enforcement officer but at the expense in all respects of the manufacturer or importer.

(5) In any year, the Department of Health must not require tests under this section in respect of more than 10 brand and brand variant of products, to be designated by the Department, sold by a particular manufacturer or importer to which subsections (1) and (2) applies.

35 Reports of tests, constituents, additives, and certain business information required

(1) Every manufacturer, importer, and exporter of tobacco products must submit to the Department of Health on at least an annual basis, unless otherwise prescribed, reports and returns containing the information specified in regulations made under this Act.

(2) The information referred to in subsection (1) may include information relating to any or all of the following—

- (a) the results of all tests that, during the previous year, have been conducted by the manufacturer or importer for the purposes of section 34;
- (b) the characteristics or source of the tobacco used in the manufacture of tobacco products sold in Niue;
- (c) any specified design features of tobacco products;
- (d) the quantity of tobacco products manufactured or imported by that manufacturer or importer during the previous year in relation to—
 - (i) The total weight of tobacco used in the manufacture of each class of tobacco product manufactured or imported for sale in Niue; and
 - (ii) the total number of packages of each brand or brand variant manufactured or imported for sale in Niue;

- (e) the quantity of each brand or brand variant of tobacco product sold by that manufacturer or importer in Niue during the previous year;
- (f) the recommended retail price of each brand or brand variant sold by that manufacturer or importer in Niue during the previous year;
- (g) the total weight of each additive used in the manufacture of each class or each brand or brand variant of tobacco product sold by that manufacturer or importer in Niue during the previous year;
- (h) research activities underway or undertaken in Niue or relevant to Niue and the purpose or findings of that research;
- (i) marketing initiatives underway or undertaken in Niue including their focus, findings, and expenditure;
- (j) activities undertaken in the areas of lobbying and philanthropy in Niue, and the names of entities or agents acting for manufacturers, exporters, and importers in relation to those activities;
- (k) any other information that may be useful for the Department of Health in the setting of tobacco control policies and legislation.

(3) Any person who fails to comply with this section commits an offence and is liable on conviction—

- (a) in the case of an individual, to a fine not exceeding 100 penalty units; or
- (b) in any other case, to a fine not exceeding 250 penalty units.

36 Provision of false or misleading information

Any person who provides false or misleading information in relation to information required to be provided under section 35 commits an offence and is liable on conviction—

- (a) in the case of an individual, to a fine not exceeding 100 penalty units; or
- (b) in any other case, to a fine not exceeding 250 penalty units.

PART 3

CONSUMER INFORMATION REQUIREMENTS

37 Conformity with packaging and labelling requirements

(1) A person must not sell, distribute, or display for sale any tobacco product that is not packaged and labelled in a manner that complies with all requirements of this Act and with any regulations made under this Act.

(2) A person must not purchase for resale tobacco products that are not packaged and labelled in a manner that complies with all requirements of this Act and with any regulations made under this Act.

(3) Any person who fails to comply with this section commits an offence and is liable on conviction—

- (a) in the case of an individual, to a fine not exceeding 100 penalty units; or
- (b) in any other case, to a fine not exceeding 250 penalty units.

38 Compulsory health messages

(1) A person must not sell, distribute, or display for sale or distribution, any tobacco product unless it has permanently affixed on its package, or permanently affixed to an individual wrapper in the case of cigars, the health messages and other information prescribed by any regulations made under this Act.

(2) Any regulations made under this Act must provide that the package of any tobacco product sold in Niue, and all outside packaging and labelling of tobacco products, must carry health messages and other information, as specified in the regulations and that those health messages and other information:

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- (a) are rotated so that a range of messages and other information is displayed on all tobacco brands and brand variants; and
- (b) are large, clear, visible, and legible; and
- (c) include elements in English; and
- (d) take up a minimum of 90 percent of the front and back principal display areas of tobacco packages.

(3) The regulations may provide that any or all packages of tobacco product sold in Niue must carry messages that are in the form of, or include, pictures or pictograms.

(4) Any person who fails to comply with this section commits an offence and is liable on conviction—

- (a) in the case of an individual, to a fine not exceeding 100 penalty units; or
- (b) in any other case, to a fine not exceeding 250 penalty units.

39 Constituent and additives disclosures required to be displayed on all tobacco product packages

(1) A person must not sell, distribute, or display for sale or distribution any tobacco product unless it has permanently affixed on its package, or permanently affixed on an individual wrapper in the case of a cigar, a disclosure in a form and manner prescribed by regulations made under this Act of any or all of the following—

- (a) a message about the health hazards of constituents of tobacco products which are generally recognized as harmful including but not limited to tar, nicotine, and carbon monoxide; and/or
- (b) the product's additives.

(2) A person must not sell, distribute, or display any tobacco products that include any kind of date of manufacture or expiry on the tobacco packaging.

(3) A person must not sell, distribute, or display any tobacco products which display quantitative information on emissions yields (such as tar, nicotine, and carbon monoxide) on the tobacco packaging.

(4) Any person who fails to comply with this section commits an offence and is liable on conviction—

- (a) in the case of an individual, to a fine not exceeding 100 penalty units; or
- (b) in any other case, to a fine not exceeding 250 penalty units.

40 Recognized acceptable standard

(1) For the purposes of this section “substantially to the same effect as required by the Act” means health messages and other information, or constituent information, which, while differing in some respects from the requirements of this Act are considered by the Minister, acting on advice from the Director of Health, to be, in all material respects, of a standard which meets or exceeds that required by sections 38 and 39 and by any regulations made under this Act.

(2) Despite section 38 and 39, but subject to their being a *Gazette* notice made under subsection (3), tobacco products that are packaged or labelled substantially to the same effect as required by the Act may be sold, distributed, displayed for sale or distribution, imported or exported.

(3) The Minister, acting on advice from the Director of Health, may, by notice in the *Gazette*, state that tobacco product labelling and the packaging of identified tobacco products, imported from an identified country or countries, is regarded by him/her as being substantially to the same effect as required by the Act.

41 Misleading labelling prohibited

(1) A person must not sell, distribute, or display for sale or distribution, or export any tobacco product that has packaging or labelling that—

- (a) promotes that tobacco product by any means that are false, misleading, deceptive, or likely to create an erroneous impression of the characteristics, health effects, hazards, or emissions of that product; or
- (b) includes any written term, descriptor, trademark, symbol, image, sign, mark, colour scheme, or other mechanism that directly or indirectly creates the false impression that a particular tobacco product is less harmful than other tobacco products.

(2) Examples of misleading words and descriptors that are prohibited for display on tobacco packaging under subsection (1) include, but are not limited to, “light”, “mild”, “low tar”, and “slim”.

(3) Regulations may prescribe further words and terms which are not to be used on the packaging or labelling of tobacco products by virtue of the fact that they are deemed to be misleading for the purposes of subsection (1).

(4) Any person who fails to comply with this section commits an offence and is liable on conviction—

- (a) in the case of an individual, to a fine not exceeding 100 penalty units; or
- (b) in any other case, to a fine not exceeding 250 penalty units.

PART 4

PROTECTION FROM EXPOSURE TO SECOND-HAND SMOKE

42 Smoking in enclosed public places and workplaces prohibited

(1) A person must not smoke in any enclosed public place or workplace including but not limited to –

- (a) Health care and rehabilitation facilities;
- (b) Education facilities and grounds;
- (c) Government facilities;
- (d) Indoor offices and workplaces;
- (e) Restaurants, cafes, pubs, and bars;
- (f) Public transportation; and
- (g) Any public place to which the public has access as designated by regulations made under this Act.

(2) Any person who fails to comply with this section commits an offence and is liable on conviction to a fine not exceeding 50 penalty units.

43 Display of No Smoking signs

(1) The owner or occupier of any public place or workplace or their agents and employees, and the owner or operator of any public transport vehicle and their agents and employees, must ensure that signs are displayed prominently stating that smoking is not permitted in that public place, workplace, or public transport vehicle.

(2) The signs required by subsection (1) must comply with the requirements of any regulations made under this Act.

(3) Any person who fails to comply with this section commits an offence and is liable on conviction—

- (a) in the case of an individual, to a fine not exceeding 50 penalty units; or
- (b) in any other case, to a fine not exceeding 100 penalty units.

44 Obligations of owners or occupiers of premises and owners or operators of public transport

(1) The owner or occupier of any public place or workplace, or their agents and employees, and the owner or operator of any public transport and their agents and employees must take all reasonable steps to ensure that people do not smoke in violation of the provisions of this Act.

(2) As well as posting signs stating that smoking is not permitted, taking reasonable steps includes, but is not limited to, —

- (a) asking an offending person to stop smoking;
- (b) requiring an offending person who continues to smoke to leave the premises and in the case of a public transport vehicle to leave the vehicle at the next scheduled stop;
- (c) seeking the assistance of law enforcement personnel in cases where the offending person refuses to stop smoking or leave the premises or vehicle.

(3) An employer, public place owner, or occupier, or public transport vehicle owner or operator must not retaliate against any employee or person who asserts his or her right to a smoke-free environment or who reports any violation of the provisions of this Part.

(4) Any person who fails to comply with this section commits an offence and is liable on conviction—

- (a) in the case of an individual, to a fine not exceeding 50 penalty units; or
- (b) in any other case, to a fine not exceeding 100 penalty units.

45 Declaration of smoke-free outdoor areas

(1) Government authorities or any other person who legally owns or operates any ground, park, field, paddock, forest, plantation, scenic or tourist site or attraction, reserve, beach, stadium, stage, wharf/jetty, airport, bus stop, playground or recreational area, or other outdoor area in which groups of people congregate may, at their express discretion, declare those areas to be areas where smoking is not permitted.

(2) Any person declaring an area smoke-free under subsection (1) must publicise the decision to declare that area as smoke-free by way of public notice or announcement, or other communications to groups regularly using that area, or through other means likely to effectively inform users of the intended smoke-free designation and the date from which that designation is to apply.

(3) Any areas declared as smoke-free under subsection (1) must be clearly marked through the display of sufficient signage to communicate to all people entering those areas that smoking is not permitted.

(4) Any person who smokes in an area declared as smoke-free under subsection (1) who, on being advised by the owner or operator of that area, or by their agent or employee, to cease smoking, fails to do so, commits an offence and is liable on conviction to a fine not exceeding 50 penalty units.

46 Identification of smoke-free villages

(1) A smoke-free village means a village where within the village boundaries smoking is not permitted in any public place, whether inside a building or an outside place and where tobacco products may not be sold.

(2) A village council may, after consultation with its people, identify places within its village where smoking is not permitted.

(3) A person must not smoke in any place that a village council has identified as a non-smoking area in accordance with subsection (2).

(4) A village council may, after consultation with its people, identify its village to be a totally smoke-free village.

(5) A person must not smoke in any public area within a smoke-free village.

(6) A person must not sell tobacco products within the boundaries of a totally smoke-free village.

(7) Any village council that implements restrictions on smoking in accordance with subsection (2), or that identifies its village as a totally smoke-free village in accordance with subsection (4), must display prominent signs to advise residents of, and visitors to, that village of the smoking restrictions or prohibition within that village. These signs may be prescribed in regulations.

(8) Any person who smokes in an area of a village, or a village, declared as smoke-free under this section who, on being advised by another person to cease smoking, fails to do so, commits an offence and is liable on conviction to any fine prescribed in the village bylaws.

PART 5

ENFORCEMENT

47 Powers of the Director

(1) The Director may issue a direction—

- (a) requiring a person to cease anything done, or prohibiting a person from commencing, anything to be done by or on behalf of that person that contravenes or would, if done, contravene this Act or any requirement imposed by or under this Act;
- (b) imposing a term or condition on a licence or on a class of licences issued under this Act;
- (c) requiring a licence holder who has breached the terms and conditions of their licence to take specified remedial action.

(2) Where any person fails to comply with or acts in contravention of a direction then, without affecting any right to prosecute that person under this Act, the Director may make application, on notice, to the High Court for an order against that person and against other persons or class of persons as may reasonably be necessary to compel the performance of or compliance with the direction and the Court may make orders as it thinks necessary to prevent any contravention of this Act or, as the case may be, to bring to an end the matters complained of in the direction.

(3) Without limiting the powers of the High Court under subsection (2), the Court may—

- (a) require a person to pay money to, or reimburse the Department for, any actual and reasonable costs and expenses that the Department has incurred or is likely to incur in avoiding, remedying, or mitigating any adverse effect arising from the failure of the person to comply with a direction earlier made against that person under subsection (1) of this subsection;
- (b) require a person to pay to the Department the Department's actual and reasonable enforcement costs in relation to a breach of this Act including the costs of investigation, supervision, and monitoring of the relevant situation, and the costs of any actions required to avoid, remedy, or mitigate an adverse effect relating to the breach of the Act.

(4) The Director may from time to time in writing either generally or particularly, delegate to any employee of the Department as he or she thinks fit all or any of the powers exercisable by him/her under any provision of this Act (or regulations made under this Act), including this present power of delegation.

- (5) Any person who fails to comply with a direction issued under subsection (1) commits an offence and is liable on conviction—
- (a) in the case of an individual, to a fine not exceeding 50 penalty units; or
 - (b) in any other case, to a fine not exceeding 100 penalty units.

48 Appointment of enforcement officers

(1) The Minister may, by warrant and notice in the Niue Gazette appoint a person who is a public service employee as an enforcement officer, and each person so designated has the power to exercise and carry out the functions and powers of an enforcement officer under this Act.

(2) The Director must supply every enforcement officer with a warrant of designation that provides evidence of the identity of that person and of the designation of that person as an enforcement officer under this Act.

(3) The warrant must clearly state the functions and powers that the person concerned has been authorised to exercise and carry out under this Act.

(4) Every enforcement officer who exercises or purports to exercise any power conferred on him or her must have with him or her, and produce if required to do so, his or her warrant and evidence of his or her identity.

(5) Every enforcement officer who holds a warrant issued under this section must, on the termination of his/her appointment, surrender the warrant to the Director.

49 Inspection and investigative powers of enforcement officers

(1) Enforcement officers shall have the following powers—

- (a) provided that the place is not a private residence, to enter the premises of any place where tobacco is manufactured, sold, transported, received, distributed, packaged, or otherwise found or likely to be found or have been present, and to enter any public place, including a workplace, to conduct inspections or investigations at any time during business or operating hours of a workplace or at any other reasonable or necessary time;
- (b) to examine, open, and test any equipment, tools, materials, packages, or anything the officer reasonably believes is used or capable of being used for the manufacture, packaging, labelling, storage, distribution, display, advertising, or promotion of tobacco products;
- (c) to examine any operation or process carried out on the premises;
- (d) to examine and make copies of or from any books, documents, notes, files, including electronic files, or other records the officer reasonably believes might contain information relevant to determining compliance with this Act or with regulations made under this Act;
- (e) to interview or question any licensee or other person involved in selling, advertising, or promoting, manufacturing, importing, exporting, growing, transporting, packaging, or distributing tobacco products; any owner of the premises; or any person using the premises, and his or her employees, agents, contractors and workers, all of whom must cooperate fully and truthfully with any inspection or investigation;
- (f) to take samples of tobacco or tobacco products or components of products anywhere they are found and have them tested;
- (g) to seize and detain, or order the storage without removal or alteration of, any tobacco or tobacco product, where ever they may be found, that the officer reasonably believes does not comply with the requirements of this Act or regulations made under the Act. Written notice of the seizure and detention and the grounds for it must be provided to the licensee or owner of the tobacco

products, or if he or she is unavailable, any other person on the place where the tobacco products are located. If any tobacco product so seized and detained is determined to meet the requirements of the Act or regulations made under the Act, it shall be returned immediately to the place from which it was seized. If any tobacco product is determined not to meet the requirements of the Act or regulations made under the Act, it may be confiscated and destroyed or subject to other disposal, as ordered by a court;

(h) to seize, detain, and dispose of any tobacco product being sold by a person in a manner which contravenes the requirements of this Act.

(2) A member of the Police may accompany an enforcement officer exercising powers under this section.

(3) Subsection (1) does not prevent an enforcement officer from entering a private residence—

(a) under authority given by or under an enactment other than this Act; or

(b) with the consent of an occupier, only to the extent necessary for, the following purposes:

(i) finding out whether this Act or regulations made under this Act are being complied with in, or in respect of, the place entered;

(ii) finding out the extent to which this Act is not being complied with in, or in respect of, the place entered.

(4) Any person who threatens, assaults, or intentionally obstructs or hinders an enforcement officer who is acting in the exercise or performance of their powers under this section commits an offence and is liable on conviction—

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

(b) in any other case, to a fine not exceeding 100 penalty units.

50 Duties of enforcement officers

An enforcement officer exercising powers under this Act must identify himself or herself as an enforcement officer to the person in charge of any premises where the officer intends to exercise his or her powers and, if asked to do so, must produce evidence of identity and his or her warrant issued under section 48.

51 Liability for the actions of agents or employees

(1) Any act or omission on behalf of a body corporate or other person (both called “the principal”) by a director, agent, or employee (each called “the agent”) of the principal is to be treated for the purposes of this Act as being also the act or omission of the principal.

(2) Despite subsection (1), where a principal is charged under this Act in relation to the act or omission of an agent for an offence, it is a good defence to the charge if the principal proves either—

(a) that the principal took all reasonable steps to prevent the commission of the offence or the commission of offences of that kind; or

(b) that the agent acted otherwise than within the terms of his/her authority, agency or contract

52 Additional jurisdiction of the Court

(1) In addition to the penalties for offences specified in this Act, upon the conviction of any person of an offence under this Act (or under regulations made under this Act), the High Court may order—

(a) licence suspension, revocation, or limitation, as applicable, for any violation;

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- (b) confiscation and forfeiture of equipment, machinery, materials, and related items used to publish, broadcast, display, or otherwise disseminate any advertisement or promote a tobacco product in violation of section 17;
- (c) confiscation and forfeiture of any tobacco or tobacco product in the possession or control of that person where that tobacco or tobacco product is packaged or labelled in a manner that does not conform to the requirements of Part 3;
- (d) confiscation and forfeiture of any tobacco or tobacco product in the possession or control of that person, however packaged or labelled, if that person is convicted of an offence under any one or more of sections 27, 28, 29, 30, 31, or 32;
- (e) confiscation and forfeiture of any equipment, machinery, raw materials, components, and any items used to manufacture or pack tobacco products in violation of section 28 or 37.

(2) Where an offence is committed under this Act on more than one occasion or on a continuing basis then a separate offence may be deemed to be committed on each day upon which the offence occurs.

(3) Compounded penalties shall be assessed for repeat violations.

(4) In determining an appropriate sentence, the Court can have regard to the extent, if any, to which the defendant has derived any pecuniary benefit by reason of the offence committed.

53 Enforcement cost recovery

In addition to any other power vested in it, the High Court, upon convicting any person of an offence under this Act (or under regulations made under this Act) may order that person to pay the reasonable costs of or incurred by the Department associated with any inspection, investigation, and enforcement action to which that conviction relates.

PART 6

ENGAGEMENT WITH THE TOBACCO INDUSTRY

54 Permitted engagement with the tobacco industry

(1) Government agencies must only interact with the tobacco industry when and to the extent strictly necessary to enable them to effectively monitor and regulate the tobacco industry.

(2) Where interactions with the tobacco industry are necessary, government agencies must ensure that all interactions are conducted transparently, with agendas, minutes, and other records of meetings or submissions received made publicly available at the soonest opportunity.

55 No partnerships permitted between Government agencies and the tobacco industry

(1) Government agencies must not accept, support, or endorse partnerships, memoranda of understanding, non-binding or non-enforceable agreements, voluntary arrangements, or codes of conduct with the tobacco industry where legally enforceable tobacco control measures can be developed and implemented instead.

(2) Government agencies must not accept, support, or endorse any offer of assistance from the tobacco industry for the development of, or funding assistance for, tobacco control legislation, policy, or programmes.

(3) Government agencies must not allow any person representing the tobacco industry or representing the interests of the tobacco industry to participate in any government interagency, multi-sectorial committee, coordinating mechanism, or advisory group that sets public health policy.

(4) Government agencies must not endorse, support, form partnerships with, or participate in activities of, the tobacco industry with the direct or indirect aim or effect of promoting a positive image of the tobacco industry or their products.

(5) Government agencies must not accept, support, or endorse the tobacco industry organising, promoting, participating in, or performing, youth, public education, or any other initiatives that are directly or indirectly related to tobacco control.

56 Government agencies must establish policies and procedures aimed at curbing the influence of the tobacco industry

(1) All Government agencies who have, or are likely to have, any interaction with the tobacco industry must establish, implement, and periodically evaluate and enhance, policies and procedures on—

the disclosure and management of conflicts of interest by all persons involved in setting and implementing public health policies with respect to tobacco control, including government officials, employees, consultants, and contractors; and

codes of conduct for public officials, prescribing the standards with which they should comply in their dealings with the tobacco industry; and

ensuring that contracts for carrying out any work related to setting and implementing public health policies with respect to tobacco control are not awarded to individuals or organisations who have conflicts of interest as a result of their existing or past work for the tobacco industry; and

Requiring applicants for government positions which have a role in setting and implementing public health policies with respect to tobacco control to declare any current or previous occupational activity with any tobacco industry whether gainful or not; and

requiring that government position holders who have or have had a role in setting and implementing public health policies with respect to tobacco control inform their institutions about any intention to engage in an occupational activity within the tobacco industry, whether gainful or not, within a period of one year after leaving service; and

requiring government officials to declare and divest themselves of direct interests in the tobacco industry; and

prohibiting employees and agents of government agencies from accepting payments, gifts, or services, either monetary or in kind, from the tobacco industry.

(2) Government agencies must not allow any person employed by the tobacco industry or by any agency acting on behalf of the tobacco industry to be a member of any government body, committee, or advisory group that sets or implements tobacco control or public health policy.

(3) Government agencies must not nominate any person employed by the tobacco industry, or any entity working to further its interests, to serve on delegations to international meetings relating to tobacco control.

(4) Government agencies must not accept financial or other contributions from the tobacco industry, except where those contributions are mandated by law or result from legal action.

(5) Government agencies must not have any financial interest or investment in the tobacco industry.

Tobacco Control

57 **No active support for the tobacco industry**

(1) Government agencies must not provide any financial support in the form of subsidies, incentives, tax exemptions, research grants, or any other mechanism designed to support the establishment, expansion, or financial viability of the tobacco industry in Niue.

(2) Government agencies must not support, endorse, or advocate for the business interests of the tobacco industry outside Niue.

58 **Existing partnerships or relationships with the tobacco industry**

(1) Where any government agency has, prior to entry into force of this section, entered into a partnership or any other relationship with the tobacco industry that would otherwise be prohibited under sections 54 to 57 that government agency must take all reasonable steps to cancel that partnership or relationship, or bring that partnership or relationship to as speedy a conclusion as is reasonably practicable.

(2) The Public Service Commission may take the steps deemed necessary to monitor, and ensure, compliance by all government agencies with sections 54 to 57.

PART 7

MISCELLANEOUS MATTERS

59 **Appeals**

A person aggrieved by any act or decision of the Department of Health under sections 8, 10, 11, 12, 13, 16 or 49 may—

- (a) request that the Department give a written statement of the reasons for its act or decision;
- (b) within 21 days of the act or decision, appeal to the Minister, or to a person authorised by the Minister to consider the appeal, whose decision is, subject to subsection (c), final; and
- (c) seek a judicial review of any decision made under subsection (b).

60 **Regulations**

(1) The Cabinet may from time to time make the regulations it considers necessary or expedient for giving full effect to the provisions of this Act and for the due administration thereof.

(2) Without limiting the general power conferred by subsection (1), it is hereby declared that regulations may be made under this section for all of the following purposes—

- prescribing the form and content of information, documents, forms, certificates, notices, leaflets, signs, displays, particulars, and notifications, and the persons by whom and the persons to whom any information, documents, forms, certificates, notices, leaflets, signs, displays, particulars, and notifications are to be supplied;
- prescribing procedures and requirements with relation to licences and licence applications, including information requirements and fees;
- prescribing records and registers for the purposes of the Act, the manner in which and the period during which any records and registers are to be kept; and the persons to whom, and the conditions on which, any records and registers may be available for searching, inspection, or copying;
- prescribing the size, colour, content and number of price notices permitted under section 19(a), and the inclusion of a health message and other information on those notices;

- prescribing additional places where it is prohibited to sell tobacco products for the purpose of section 31;
- prescribing the form, size, and content of health messages and other information (including information about constituents) to be displayed with, on, or in packages of, tobacco products; and prescribing the circumstances and manner in which the messages and other information are to be so displayed, including—
 - (i) requiring tobacco products sold or offered for sale to display a photograph or picture intended to have effect as a warning relating to the effects of their use on health; or
 - (ii) specifying controls on the content of tobacco products;
- specifying controls on the content of tobacco products including the setting of maximum and minimum limits for additives and constituents, the formulation of the product, product design characteristics, features or attributes, and any other matters required to give effect to the purpose of this Act;
- prescribing the method and location for testing and determining the constituents of tobacco products and the constituents of smoke produced from their combustion, including any suitability criteria for any laboratory to be considered acceptable to undertake such testing;
- prescribing which variants of brands should be tested or whether they should all be for the purposes of section 34;
- prescribing the form and manner in which returns and reports are to be filed under section 35;
- requiring manufacturers and importers of tobacco products conducting tests for the constituents, and the respective quantities of those constituents of each brand sold by that manufacturers or importers to test each variant of the brand separately; or
- requiring manufacturers and importers of tobacco products conducting tests for the constituents, and the respective quantities of those constituents, in the smoke of each brand of the product sold by the manufacturers or importers that is intended to be smoked, to test each variant of the brand separately;
- requiring manufacturers and importers of tobacco products to file with the Director returns showing all additives used in the manufacture of the tobacco products sold by that manufacturer or importer, including whether those returns should be brand variant-specific or product class-specific;
- requiring manufacturers and importers of tobacco products to file with the Director returns showing by brand variant—
 - (i) the weight of tobacco (or the weight of tobacco and of each additive) used in the manufacture of the tobacco products sold by the manufacturer or importer; and
 - (ii) the quantity of each variant of a brand of tobacco product sold by the manufacturer or importer; and
 - (iii) the recommended price of each variant of a brand of tobacco product sold by the manufacturer or importer during the previous calendar year;
- prescribing the form, size, and content of information, including information about constituents, and the health messages and other information to be displayed with, on, or in packages of tobacco products; and prescribing the circumstances and manner in which the information and messages are to be so displayed, including—

Tobacco Control

- (i) Requiring tobacco products sold or offered for sale to display a photograph or picture intended to have effect as a warning relating to the effects of their use on health.

prescribing words, terms, descriptors, trademarks, symbols, signs, marks, colour schemes, or other techniques for branding tobacco packages that are considered misleading for the purposes of section 41;

prescribing the number, size, format, and content of no smoking signs for the purpose of section 43; and

providing for any other matters contemplated by this Act, necessary for its full administration, or necessary for giving it full effect.

UNIVERSITY OF THE SOUTH PACIFIC CONVENTION ACT 2018

2018/346 – 25 December 2018

1	Title	6	Legal Status
2	Commencement	7	National Treatment
			PART 3
			<i>Miscellaneous</i>
		8	Regulations
3	Interpretation		
4	Act Binds the Government		SCHEDULES
			PART 2
			<i>Implementation of the Convention</i>
5	Application of the Convention		

An Act to implement in the law of Niue the Convention recognising the University of the South Pacific in each Member Country of the University

1 Title

This is the University of the South Pacific Convention 2018.

2 Commencement

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

PART 1

Preliminary Matters

3 Interpretation

(1) In this Act, unless the context otherwise requires –
“Minister” means the Minister for Education;
“USP” means the University of the South Pacific;
“USP Charter” means the Royal Charter of the USP set out in Schedule 2;
“USP Convention” means the Convention Recognising the University of the South Pacific in Member Countries of the University set out in Schedule 1;
“USP Statutes” means the Statutes of the USP set out in Schedule 3.

(2) In interpreting the USP Convention, regard may be made to –

(a) the USP Royal Charter; and

(b) the USP Statutes.

(3) Unless a contrary intention appears, words and expressions used in this Act must be accorded the same meaning as used in the USP Convention.

(4) In this Act, a reference to the USP Convention, the USP Royal Charter or the USP Statutes is a reference to that document as amended, adapted or extended from time to time.

4 Act binds the Government

This Act binds the Government.

PART 2

Implementation of the Convention

5 Application of the Convention

(1) The USP Convention to the extent it applies to the recognition and operations of the University of the South Pacific in Niue, shall have the force of law in Niue.

(2) The Minister shall, as soon as practicable after any amendment to the USP Convention is made pursuant to the relevant Articles, cause a copy of the amendments to be published in the *Gazette*.

6 Legal Status

USP shall enjoy the legal status of a body corporate incorporated under the laws of Niue.

7 National treatment

(1) USP shall enjoy national treatment under the laws of Niue.

(2) For the purposes of this section –
“nationals” means legal entities incorporated under the laws of Niue as nationals of Niue; and
“national treatment” means that as regards the operations of USP in Niue, USP shall enjoy the same rights and all advantages that nationals of Niue are accorded in Niue.

PART 3

Miscellaneous

8 Regulations

Cabinet may make Regulations as are necessary for carrying out the purposes of this Act.

SCHEDULE 1

Convention Recognising the University of the South Pacific in each Member Country of the University

[Schedule not reproduced. The text of the Convention can be accessed at <https://policylib.usp.ac.fj/>]

SCHEDULE 2

Royal Charter of the University of the South Pacific

[Schedule not reproduced. The text of the Royal Charter can be accessed at <https://policylib.usp.ac.fj/>]

SCHEDULE 3

Statutes of the University of the South Pacific

[Schedule not reproduced. The text of the Statutes can be accessed at <https://policylib.usp.ac.fj/>]

**Part 2
Amendments**

6 Equipment, material, and substances used in the production or cultivation

Section 8 is repealed and the following section is substituted –

8 Equipment, material, and substances used in the production or cultivation

- “(1) Every person commits an offence against this Act who supplies, produces, or manufactures –
- “(a) any equipment or material that is capable of being used in, or for, the commission of an offence against section 4(1) (b) knowing that the equipment, material, is to be used in, or for, the commission of an offence under that provision; or
 - “(b) any precursor substance, knowing that substances to be used in, or for, the commission of an offence against section 4(1) (b)
- “(2) Every person commits an offence against this Act who has in his or her possession –
- “(a) Any equipment or material that is capable of being used in or for the commission of an offence against section 4(1)(b), knowing that the material or equipment is to be used in or for the commission of an offence under that provision; or
 - “(b) Any precursor substance, knowing that the substance is to be used in the commission of an offence against 4(1)(b)

7 Knowingly importing or exporting precursor substances

Section 9 is repealed and the following section is substituted-

9 Knowingly importing or exporting precursor substances

- “(1) Every person commits an offence who-
- “(a) Imports into Niue any precursor substance knowing that it will be used to commit an offence under section 4(1)(b); or
 - “(b) Exports from Niue any precursor substance knowing that it will be used to commit an offence under the law of the country to which the precursor substance is being exported that corresponds to an offence under section 4(1)(b)

APPROPRIATION (ANNUAL) ACT 2019

2019/348 – 6 August 2019

An Act to appropriate certain sums of money out of the Niue Assembly account to the services for the year ending 30th of June 2020 and to appropriate the supplies granted in that year.

1 Title

This is the Appropriation (Annual) Act 2019.

2 Commencement

(1) This Act shall relate to the financial year ending on the 30th day of June 2020 (hereinafter referred to as "the financial year").

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

3 Grant and Appropriation of Expenditure

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

(a) for Recurrent Operational Expenditure, Capital Projects and Investment and Development Projects a sum of which does not exceed \$26,735,000 in total; and

(b) for development partner Investment and Development projects a sum which does not exceed \$20,595,000 in total

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

SCHEDULE A

TABLE 1: 2019-20 BUDGET SUMMARY

(\$'000)	Voted 2017-18	Actual 2017-18	Voted 2018-19	Actual 2018-19	Estimate 2019-20
Total Niue Recurrent Revenues	-28,157	-24,622	-26,138	-26,218	-28,735
Total Niue Recurrent Expenses	28,414	24,427	25,326	24,900	28,173
Total Niue Funded Capital	100	21	100	61	100
Niue Funded I&D	812	377	712	708	462
Total Appropriation	29,326	24,825	26,138	25,669	28,735
Niue Budget Surplus/Deficit	1,169	203	0	-547	0
Donor I&D Revenue	-9,670	-5,536	-18,250	-12,850	-20,595
Donor I&D Expenditure	9,670	5,536	18,250	12,850	20,595
Total Revenue	-37,827	-30,158	-44,388	-39,068	-49,330
Total Expenses	38,996	30,361	44,388	38,519	49,330
Surplus (-ve) / Deficit (+ve)	1,169	203	0	-547	0

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

Appropriation 2019

SCHEDULE B

GOVERNMENT OF NIUE 2019-20 BUDGET RECURRENT EXPENDITURE BY MINISTRIES							
Entity	Department	2017-18 Voted	2017-18 Actual	2018-19 Voted	2018-19 Actual	2019-20 Estimate	
CENTRAL AGENCIES	Cabinet and Parliamentary Services	1,742,000	1,775,228	1,808,000	1,474,953	2,204,000	
	Premiers Department	606,000	663,759	671,000	730,333	755,000	
	Project Management Coordination Unit	287,000	246,082	291,000	261,220	347,000	
	Crown Law	399,000	376,358	398,000	462,818	450,000	
	Niue Public Service Commission and Secretariat	1,326,000	1,204,774	1,295,000	1,145,311	1,378,000	
	Finance and Planning	5,494,000	1,592,131	1,351,000	1,213,530	1,619,000	
	Police	610,000	566,985	733,000	582,449	720,000	
	Sub total: Central agencies	10,464,000	6,425,317	6,547,000	5,870,614	7,473,000	
	MINISTRY OF SOCIAL SERVICES	Education Department	2,721,000	2,652,496	2,773,000	2,794,300	3,052,000
		Health Department	2,290,000	2,406,662	2,407,000	2,445,246	2,639,000
Justice Department (Inc Com Affairs)		4,033,000	4,024,373	4,369,000	4,120,035	4,402,000	
Taoga Niue		272,000	217,479	305,000	246,160	384,000	
Sub total: Ministry of Social Services		9,316,000	9,301,010	9,854,000	9,605,741	10,477,000	
MINISTRY OF NATURAL RESOURCES	DAFF	899,000	762,866	885,000	765,982	1,028,000	
	Environment Department	332,000	322,429	328,000	339,366	395,000	
	Met Office	202,000	177,996	204,000	190,222	231,000	
	Sub total: Ministry of Natural Resources	1,433,000	1,263,291	1,417,000	1,295,569	1,654,000	
MINISTRY OF INFRASTRUCTURE	Utilities	862,000	790,820	829,000	709,821	1,008,000	
	Transport	1,497,000	1,218,813	1,346,000	1,298,285	1,496,000	
	Sub total: Ministry of Infrastructure	2,359,000	2,009,633	2,175,000	2,008,105	2,504,000	
COMMERCIAL AND TRADING	Niue Tourism Authority	477,000	375,914	356,000	374,662	436,000	
	Bulk Fuel	4,365,000	4,960,752	4,986,000	5,746,005	5,629,000	
	Sub total: Commercial and Trading	4,842,000	5,336,665	5,342,000	6,120,667	6,065,000	
	TOTAL RECURRENT EXPENDITURE	28,414,000	24,335,916	25,335,000	24,900,697	28,173,000	

GOVERNMENT OF NIUE 2019-20 BUDGET RECURRENT REVENUE BY MINISTRIES							
Entity	Department	2017-18 Voted	2017-18 Actual	2018-19 Voted	2018-19 Actual	2019-20 Estimate	
CENTRAL AGENCIES	Cabinet and Parliamentary Services	0	-1,000	-2,000	0	-2,000	
	Premiers Department	-2,000	-1,852	-2,000	-9,370	-10,000	
	Crown Law	0	-738	-1,000	-1,147	-1,000	
	Niue Public Service Commission and Secretariat	0	0	0	0	0	
	Finance and Planning	-19,390,000	-16,187,349	-16,726,000	-15,715,120	-18,177,000	
	Project Management Coordination Unit	-301,000	0	-206,000	-27,222	-150,000	
	Police	-183,000	-157,611	-183,000	-150,442	-173,000	
	Sub total: Central agencies	-19,876,000	-16,348,550	-17,120,000	-15,903,301	-18,513,000	
	MINISTRY OF SOCIAL SERVICES	Education Department	-5,000	-4,809	-6,000	-25,587	-28,000
		Health Department	-45,000	-50,194	-59,000	-50,458	-71,000
Justice Department (Inc Com Affairs)		-105,000	-60,867	-113,000	-49,466	-67,000	
Taoga Niue		-7,000	-8,024	-27,000	-46,610	-37,000	
Sub total: Ministry of Social Services		-162,000	-123,894	-205,000	-172,122	-203,000	
MINISTRY OF NATURAL RESOURCES	DAFF	-1,198,000	-1,317,907	-1,309,000	-1,917,286	-1,963,000	
	Environment Department	-1,000	-2,965	-1,000	-8,192	-6,000	
	Met Office	-2,000	-560	-1,000	-2,855	-1,000	
	Sub total: Ministry of Natural Resources	-1,201,000	-1,321,432	-1,311,000	-1,928,333	-1,970,000	
MINISTRY OF INFRASTRUCTURE	Utilities	-38,000	-8,965	-11,000	-6,786	-10,000	
	Transport	-1,632,000	-1,669,088	-1,857,000	-1,488,067	-1,918,000	
	Sub total: Ministry of Infrastructure	-1,670,000	-1,678,053	-1,868,000	-1,494,853	-1,928,000	
COMMERCIAL AND TRADING	Niue Tourism Authority	-48,000	-26,652	-48,000	-26,477	-48,000	
	Bulk Fuel	-5,200,000	-6,395,470	-5,586,000	-6,693,638	-6,073,000	
	Sub total: Commercial and Trading	-5,248,000	-6,422,123	-5,634,000	-6,720,116	-6,121,000	
	TOTAL RECURRENT REVENUE	-28,157,000	-25,894,052	-26,138,000	-26,218,725	-28,735,000	

Niue Legislation Supplement 2016-2019

Schedule C

GOVERNMENT OF NIUE 2019-20 BUDGET

RECURRENT EXPENDITURE BY VOTE & NNSP PILLAR						
DEPARTMENTS	VOTE	NNSP Pillar	2018/19 Voted	2018/19 Actual	2019/20 Estimate	
TREASURY	Finance	1. Fin. Stability	\$766,000	\$565,792	\$917,000	
TREASURY	Taxation	1. Fin. Stability	\$0	\$0	\$0	
1. Fin. Stability Total			\$766,000	\$565,792	\$917,000	
CABINET/PARLIAMENT	Corporate Services	2. Governance	\$324,000	\$182,479	\$266,000	
CABINET/PARLIAMENT	Cabinet Services	2. Governance	\$637,000	\$583,885	\$905,000	
CABINET/PARLIAMENT	Legislature	2. Governance	\$847,000	\$708,589	\$1,033,000	
OFFICE SOG	Niue High Commission	2. Governance	\$256,000	\$226,332	\$254,000	
OFFICE SOG	External Affairs	2. Governance	\$415,000	\$504,002	\$501,000	
PMCU	Project Management Unit	2. Governance	\$291,000	\$261,220	\$347,000	
CROWN LAW	Crown Law Office	2. Governance	\$398,000	\$462,818	\$450,000	
NPSC and Secretariat	Corporate Services/HRMIS	2. Governance	\$841,000	\$731,562	\$887,000	
NPSC and Secretariat	Strategic Human Resource	2. Governance	\$69,000	\$42,611	\$69,000	
NPSC and Secretariat	Manpower Supplementation	2. Governance	\$122,000	\$124,164	\$148,000	
TREASURY	Customs (fly Customs/Taxatic	2. Governance	\$349,000	\$438,382	\$462,000	
TREASURY	Statistics and Immigration	2. Governance	\$177,000	\$162,653	\$181,000	
DAFF	Quarantine	2. Governance	\$136,000	\$133,635	\$142,000	
JUSTICE	Administraton & Registry	2. Governance	\$206,000	\$111,561	\$192,000	
JUSTICE	Civil/Criminal Court	2. Governance	\$84,000	\$77,793	\$83,000	
JUSTICE	Land Court	2. Governance	\$112,000	\$100,105	\$111,000	
POLICE	Administration	2. Governance	\$544,000	\$469,250	\$568,000	
POLICE	Prison	2. Governance	\$61,000	\$24,408	\$40,000	
POLICE	Disaster Management	2. Governance	\$128,000	\$88,790	\$112,000	
2. Governance Total			\$5,997,000	\$5,434,239	\$6,761,000	
TREASURY	Economic Development	3. Econ. Dev.	\$59,000	\$46,703	\$59,000	
TRANSPORT	Civil Aviation	3. Econ. Dev.	\$251,000	\$229,738	\$263,000	
TRANSPORT	Rescue Fire Services	3. Econ. Dev.	\$242,000	\$212,130	\$245,000	
NPSC and Secretariat	Employment Relations	3. Econ. Dev.	\$47,000	\$47,536	\$49,000	
DAFF	Administration	3. Econ. Dev.	\$306,000	\$314,827	\$409,000	
DAFF	Fisheries	3. Econ. Dev.	\$118,000	\$69,638	\$154,000	
DAFF	Crop Research & Animal Heal	3. Econ. Dev.	\$170,000	\$125,164	\$168,000	
DAFF	Crop Extension Services	3. Econ. Dev.	\$92,000	\$64,829	\$91,000	
JUSTICE	Land Management	3. Econ. Dev.	\$287,000	\$213,584	\$262,000	
UTILITIES	Administration	3. Econ. Dev.	\$167,000	\$163,580	\$163,000	
UTILITIES	Regulatory and Compliance U	3. Econ. Dev.	\$178,000	\$102,359	\$331,000	
UTILITIES	Water Supply	3. Econ. Dev.	\$484,000	\$443,882	\$514,000	
TRANSPORT	Maritime	3. Econ. Dev.	\$35,000	\$35,501	\$64,000	
TOURISM	Tourism Authority	3. Econ. Dev.	\$356,000	\$374,662	\$436,000	
3. Econ. Dev. Total			\$2,792,000	\$2,444,132	\$3,208,000	
NPSC and Secretariat	Human Resource Developmei	4. Social	\$216,000	\$199,438	\$225,000	
COMMUNITY AFFAIRS	Administration	4. Social	\$373,000	\$292,487	\$371,000	
COMMUNITY AFFAIRS	Community Devel. & Social W	4. Social	\$3,307,000	\$3,324,506	\$3,383,000	
EDUCATION	Administration	4. Social	\$793,000	\$760,568	\$765,000	
EDUCATION	Niue Primary School	4. Social	\$650,000	\$728,557	\$743,000	
EDUCATION	Niue High School	4. Social	\$1,255,000	\$1,269,887	\$1,329,000	
EDUCATION	Aoga Ofaga Tolotolopulu			\$0	\$175,000	
EDUCATION	National Library	4. Social	\$75,000	\$35,287	\$40,000	
HEALTH	Administration	4. Social	\$578,000	\$479,427	\$594,000	
HEALTH	Medical	4. Social	\$734,000	\$890,073	\$893,000	
HEALTH	Nursing	4. Social	\$492,000	\$480,800	\$515,000	
HEALTH	Public Health	4. Social	\$385,000	\$382,083	\$386,000	
HEALTH	Dental	4. Social	\$218,000	\$212,864	\$251,000	
4. Social Total			\$9,076,000	\$9,055,977	\$9,670,000	
DAFF	Forestry	5. Environ.	\$63,000	\$57,890	\$64,000	
ENVIRONMENT	Administration	5. Environ.	\$319,000	\$339,366	\$395,000	
MET SERVICE	Administration	5. Environ.	\$204,000	\$190,222	\$231,000	
5. Environ. Total			\$586,000	\$587,477	\$690,000	
TAOGA NIUE	Administration	6. Taoga Niue	\$305,000	\$246,160	\$384,000	
6. Taoga Niue Total			\$305,000	\$246,160	\$384,000	
BULK FUEL	Bulk Fuel	3. Econ. Dev.	\$4,986,000	\$5,746,005	\$5,629,000	
TRANSPORT	Transport Administration	3. Econ. Dev.	\$124,000	\$115,934	\$131,000	
TRANSPORT	Outside Services	3. Econ. Dev.	\$499,000	\$520,632	\$527,000	
TRANSPORT	Heavy Plant	3. Econ. Dev.	\$195,000	\$184,349	\$266,000	
Trading Operations			\$5,804,000	\$6,566,920	\$6,553,000	
TOTAL RECURRENT EXPENDITURE			\$26,326,000	\$24,900,697	\$28,173,000	

Appropriation 2019

GOVERNMENT OF NIUE 2019-20 BUDGET

RECURRENT REVENUE BY VOTE & NNSP PILLAR					
DEPARTMENTS	VOTE	NNSP Pillar	2018/19 Voted	2018/19 Actual	2019/20 Estimate
TREASURY	Finance	1. Fin. Stability	-\$8,555,000	-\$6,510,277	-\$8,553,000
TREASURY	Taxation	1. Fin. Stability	-\$6,307,000	-\$4,839,675	-\$5,612,000
1. Fin. Stability Total			-\$14,862,000	-\$11,349,952	-\$14,165,000
CABINET/PARLIAMENT	Corporate Services	2. Governance	-\$1,000	\$0	-\$1,000
CABINET/PARLIAMENT	Cabinet Services	2. Governance	\$0	\$0	\$0
CABINET/PARLIAMENT	Legislature	2. Governance	-\$1,000	\$0	-\$1,000
OFFICE SOG	Niue High Commission	2. Governance	-\$2,000	-\$9,370	-\$10,000
OFFICE SOG	External Affairs	2. Governance	\$0	\$0	\$0
PMCU	Project Management Unit	2. Governance	-\$206,000	-\$27,222	-\$150,000
CROWN LAW	Crown Law Office	2. Governance	-\$1,000	-\$1,147	-\$1,000
NPSC and Secretariat	Corporate Services/HRMIS	2. Governance	\$0	\$0	\$0
NPSC and Secretariat	Strategic Human Resource	2. Governance	\$0	\$0	\$0
NPSC and Secretariat	Manpower Supplementation	2. Governance	\$0	\$0	\$0
TREASURY	Customs (fly Customs/Taxatic	2. Governance	-\$1,828,000	-\$4,315,773	-\$3,960,000
TREASURY	Statistics and Immigration	2. Governance	-\$35,000	-\$47,951	-\$51,000
DAFF	Quarantine	2. Governance	-\$28,000	-\$32,055	-\$32,000
JUSTICE	Administraton & Registry	2. Governance	-\$15,000	-\$20,694	-\$20,000
JUSTICE	Civil/Criminal Court	2. Governance	-\$10,000	-\$210	-\$6,000
JUSTICE	Land Court	2. Governance	-\$15,000	-\$7,259	-\$15,000
POLICE	Administration	2. Governance	-\$183,000	-\$150,442	-\$173,000
POLICE	Prison	2. Governance	\$0	\$0	\$0
2. Governance Total			-\$2,325,000	-\$4,612,123	-\$4,420,000
TREASURY	Economic Development	3. Econ. Dev.	-\$1,000	-\$1,444	-\$1,000
TRANSPORT	Civil Aviation	3. Econ. Dev.	-\$508,000	-\$305,230	-\$508,000
TRANSPORT	Fire and Rescue	3. Econ. Dev.	-\$12,000	-\$11,520	-\$15,000
DAFF	Administration	3. Econ. Dev.	-\$14,000	-\$11,186	-\$12,000
DAFF	Fisheries	3. Econ. Dev.	-\$1,240,000	-\$1,859,400	-\$1,894,000
DAFF	Crop Research & Animal Heal	3. Econ. Dev.	-\$13,000	-\$6,100	-\$16,000
DAFF	Crop Extension Services	3. Econ. Dev.	-\$11,000	-\$5,477	-\$6,000
JUSTICE	Land Management	3. Econ. Dev.	-\$73,000	-\$21,303	-\$26,000
UTILITIES	Administration	3. Econ. Dev.	\$0	\$0	\$0
UTILITIES	Building & Engineering	3. Econ. Dev.	-\$5,000	-\$1,780	-\$3,000
UTILITIES	Water Supply	3. Econ. Dev.	-\$6,000	-\$5,006	-\$7,000
TRANSPORT	Maritime	3. Econ. Dev.	-\$400,000	-\$443,974	-\$450,000
TOURISM	Tourism Authority	3. Econ. Dev.	-\$48,000	-\$26,477	-\$48,000
3. Econ. Dev. Total			-\$2,331,000	-\$2,698,897	-\$2,986,000
EDUCATION	Administration	4. Social	-\$1,000	-\$22,855	-\$25,000
EDUCATION	Niue Primary School	4. Social	-\$1,000	-\$311	\$0
EDUCATION	Niue High School	4. Social	-\$3,000	-\$2,421	-\$3,000
EDUCATION	National Library	4. Social	-\$1,000	\$0	\$0
HEALTH	Administration	4. Social	-\$50,000	-\$36,882	-\$55,000
HEALTH	Medical	4. Social	-\$6,000	-\$9,892	-\$11,000
HEALTH	Public Health	4. Social	\$0	-\$1,072	-\$2,000
HEALTH	Dental	4. Social	-\$3,000	-\$2,613	-\$3,000
4. Social Total			-\$66,000	-\$76,045	-\$99,000
DAFF	Forestry	5. Environ.	-\$3,000	-\$3,068	-\$3,000
ENVIRONMENT	Administration	5. Environ.	-\$1,000	-\$8,192	-\$6,000
MET SERVICE	Administration	5. Environ.	-\$1,000	-\$2,855	-\$1,000
5. Environ. Total			-\$5,000	-\$14,115	-\$10,000
TAOGA NIUE	Administration	6. Taoga Niue	-\$27,000	-\$46,610	-\$37,000
6. Taoga Niue Total			-\$27,000	-\$46,610	-\$37,000
BULK FUEL	Bulk Fuel	3. Econ. Dev.	-\$5,586,000	-\$6,693,638	-\$6,073,000
TRANSPORT	Outside Services	3. Econ. Dev.	-\$925,000	-\$727,344	-\$925,000
TRANSPORT	Heavy Plant	3. Econ. Dev.	-\$12,000	\$0	-\$20,000
Trading Operations			-\$6,523,000	-\$7,420,981	-\$7,018,000
TOTAL RECURRENT REVENUE			-\$26,138,000	-\$26,218,724	-\$28,735,000
RECURRENT OPERATIONAL SURPLUS/(DEFICIT)			\$812,000	\$1,318,026	\$562,000
GON RECURRENT CAPITAL EXPENDITURE			-\$100,000	-\$61,699	-\$100,000
GON RECURRENT INVESTMENT & DEVELOPMENT PROJECTS			-\$712,000	-\$708,563	-\$462,000
GON BUDGET BALANCE (-ve = Deficit, +ve = Surplus)			\$0	\$547,764	\$0

MARITIME ZONES AMENDMENT ACT 2019

2019/349 – 24 September 2019

1	Title		PART 2
2	Commencement		AMENDMENTS
3	Principal Act amended	6	Marine Protected Areas
		7	Marine Management and Spatial Planning
			PART 3
			GENERAL AND MISCELLANEOUS PROVISIONS
			<i>Offences</i>
		8	Offences

			PART 1
			PRELIMINARY MATTERS
4	Act binds the Government		
5	Application of Act		

An Act to amend the Maritime Zones Act 2013 to enable the establishment of Marine Protected Areas within the Maritime Zones of Niue and to allow for marine management and spatial planning within the Maritime Zones;

- 1 Title**
This Act is the Maritime Zones Amendment Act 2019.
- 2 Commencement**
This Act comes into force on the day after the date on which this Act becomes law in accordance with Article 34 of the Constitution.
- 3 Principal Act amended**
This Act amends the Maritime Zones Act 2013.

Part 1 Preliminary matters

- 4 Act binds the Government**
This Act binds the Government.
- 5 Application of Act**
This Act applies to the Maritime Zones Act 2013.

**Part 2
Amendments**

6 Marine Protected Areas

(1) The following section is inserted after section 15 –

“15A Marine Protected Areas

“(1) Within the exclusive economic zone and the continental shelf, Niue Cabinet has the exclusive right to authorise and regulate the establishment and management of Marine Protected Areas.

“(2) Marine protected areas may be established for fisheries management, conservation or environmental protection measures.

“(3) A Marine protected area may be established subject to specific requirements or regulation as determined by Cabinet.

7 Marine Management and Spatial Planning

(1) The following section is inserted after section 15A -

“15B Marine Management and Spatial Planning

“(1) Within the exclusive economic zone and continental shelf to the extent that there is no inconsistency with any restrictions of an established marine protected area, Niue Cabinet has the exclusive right to authorise and regulate the establishment and management of marine management and spatial plans.

“(2) A Marine Management or Spatial plan may be established by regulation for any area within the maritime zones or within a marine protected area.

**Part 3
General and miscellaneous provisions**

Offences

8 Offences

(1) The following Part is inserted after Part 6-

**Part 6A
Offences**

“16A Breach of a Marine Protected Area

A person who is found to be in breach of any restrictions required within a marine protected area commits an offence and is liable on conviction, –

“(a) in the case of an individual, to a fine not exceeding 50 penalty units, or to imprisonment for a term not exceeding 6 months, or both; or

“(b) in any other case, to a fine not exceeding 100 penalty units.

CIVIL LIST AMENDMENT ACT 2019

2019/350 – 20 December 2019

An Act to amend the Civil List Act 2016

1 Title
This is the Civil List Amendment Act 2019.

2 [Spent]

3 Principal Act amended
This Act amends the Civil List Act 2016.

Amendments

4 Payments of Remuneration
Section 6 of the Principal Act is amended by repealing subsection (2) and substituting it with the following subsection:

(2) The rate of remuneration in Part 1 of the Schedule is deemed to be effective from 12 December 2019.

5 Rates of Remuneration amended
Part 1 of the Schedule is repealed and the following Amended Schedule is substituted.

Office	Rate of Remuneration - Annual
Premier	\$80,785.00
Minister	\$56,789.00
Member Assisting Minister	\$45,095.00
Member	\$31,959.00
Speaker	\$36,511.00

PART II

SUBSIDIARY LEGISLATION

NIUE CUSTOMS AND TARIFF (GENERAL AMENDMENTS) REGULATIONS 2016

2016/4 – 7 July 2016

1 Title

These regulations are the Niue Customs and Tariff (General Amendment) Regulations 2017.

2 Customs Tariff Schedule

Any reference to “The Pacific Harmonized Customs Tariff Schedule 1996” in any enactment, agreement, instrument, application, notice or other documents shall after the commencement of these Regulations be read as the “World Customs Organization Harmonized Commodity description and Coding System (HCS) as applied from time to time”.

3 Tariff lines and import duty

The HCS in the Schedule to these Regulations and as applied from time to time sets out the commodities and tariff lines that incur import duty and their corresponding duty rates.

4 Standard International Trade Classification Code

The Standard International Trade Classification Code (SITC) as applied from time to time shall be included in the Customs Tariff Schedule.

5 Zero-rated export duty

The commodities and tariff lines which incur export duty shall be zero-rated export duty.

6 Revocations

The Niue Customs Tariff (General Amendment) Regulations 2009 are hereby revoked.

SCHEDULE

World Customs Organization Harmonized Commodity description and Coding System
(HCS)

PENSIONS AND BENEFITS REGULATIONS 2016

2016/5 – 1 December 2016

1 Name

These are the Pensions and Benefits Regulations 2016.

2 Interpretation

In these Regulations, “Act” means the Pensions and Benefits Act 1991.

3 Entry into force

These Regulations enter into force on 1 December 2016.

4 Rate of pension

The rate of pensions payable under section 4 of the Act is –

- (a) in the case of a person who has attained the age of 60 years to 69 years - \$9,620 a year;
- (b) in the case of a person who has attained the age of 70 years to 79 years - \$9,880 a year;
- (c) any other person - \$10,140 a year.

5 Rate of welfare benefit

The maximum rate of welfare benefit for the purpose of section 13 of the Act is –

- (a) in the case if a person considered by the Welfare Committee to be a person with a severe disability - \$4,680 a year; and
- (b) in any other case - \$3,900 a year.

6 Revocations

The Pensions and benefits Regulations 2015 are revoked.

WATER REGULATIONS 2017

2017/01 – 3 February 2017

1	Title		<i>Extraction licences</i>
2	Commencement	5	Application for extraction licence and form of licence
3	Interpretation	6	Renewal of extraction licence
		7	General condition
	<i>Bores</i>		
4	Application for construction, alteration, or maintenance of a bore		<i>Water pollution control licences</i>
		8	Application for water pollution control licences
		9	Renewal of water pollution control licence

1 Title

These regulations are the Water Regulations 2017.

2 Commencement

These regulations come into force on the day after the date on which they are made in accordance with Article 13 of the Constitution.

3 Interpretation

- (1) In these regulations, unless the context otherwise requires —
- “Act” means the Water Act 2012;
- “Department” means the Public Works Department or the Environment Department;
- “extraction” licence means a licence to extract and use water that is issued for the purposes of Division 3 of Part 4 of the Act;
- “NCT” means Niue consumption tax;
- “water pollution control licence” means a licence to carry out scheduled activities at specified locations or premises that is issued for the purposes of Division 1 of Part 5 of the Act.

(2) Any term or expression that is defined in the Act and used, but not defined, in these regulations has the same meaning as in the Act.

Bores

4 Application for construction, alteration, or maintenance of a bore

- (1) An application for the construction, alteration, or maintenance of a bore must—
- (a) be in a form provided by the Public Works Director and contain the information specified in Schedule 1; and
- (b) be accompanied by the application fee of \$300.
- (2) The applicant must pay all the reasonable costs of the Public Works Director in relation to the application.

Extraction licences

5 Application for extraction licence and form of licence

- (1) An application for an extraction licence must —
 - (a) be in a form provided by the Public Works Director and contain the information specified in Schedule 2; and
 - (b) be accompanied by the application fee of \$300.
- (2) The applicant must pay all the reasonable costs of the Public Works Director in relation to the application, including the costs of providing a connection to the main public water supply and providing and connecting any water meter.
- (3) An extraction licence must be in a form provided by the Public Works Director and contain the information specified in Schedule 3.

6 Renewal of extraction licence

- (1) The holder of an extraction licence who wishes to renew the licence must reapply at least one month before its expiry (under section 23 of the Act a licence is valid for 3 years from the date on which it is granted).
- (2) An application for renewal must be made under regulation 5 as if it were an application for a new extraction licence.

7 General condition

- (1) It is a condition of every extraction licence that the holder's activities are carried out in such a manner that will minimise the pollution of water resources and the wastage of water.
- (2) The Public Works Director may impose on any extraction licence reasonable conditions to prevent the pollution of, and to conserve, water resources.

Water pollution control licences

8 Application for water pollution control licences

- (1) An application for a water pollution control licence must—
 - (a) be in a form provided by the Department and contain the information specified in Schedule 4; and
 - (b) be accompanied by the application fee of \$100.
- (2) The applicant must pay all the reasonable costs of the Department in relation to the application.
- (3) A water pollution control licence must be in a form provided by the Department and contain the information set out in Schedule 5.

9 Renewal of water pollution control licence

- (1) The holder of a water pollution control licence who wishes to renew the licence must reapply at least one month before its expiry (under section 43 of the Act a licence is valid for 3 years from the date on which it is granted).
- (2) An application for renewal must be made under regulation 8 as if it were an application for a new water pollution control licence.