



Niue (Updating Sexual Offences Against Children and Electronic Evidence) Amendment Act 2026

No. 385

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An Act to—

- (a) update sexual offences in the Niue Act 1966 relating to the use of electronic and other communications for grooming or meeting with children and young people for sexual conduct and to prohibit dealings with child abuse material; and
- (b) expressly provide for the admissibility of electronic evidence in proceedings.

The Assembly enacts as follows—

- 1 Title**
This Act is the Niue (Updating Sexual Offences Against Children and Electronic Evidence) Amendment Act 2026.
- 2 Commencement**
This Act comes into force on the day after the date on which it becomes law in accordance with Article 34 of the Constitution.
- 3 Principal Act**
This Act amends the Niue Act 1966.

Sexual offences relating to children and young people

4 New sections 164B to 164E inserted

After section 164A (section 37A of the Criminal Law Code), insert:

“164B Grooming for sexual conduct with young person

- “(1) A person aged 18 years or over is liable to imprisonment for a term not exceeding 3 years if—
- “(a) they communicate by words or conduct with a person under the age of 16 years (the **young person**); and
 - “(b) they do so intending to sexually exploit the young person.
- “(2) Whether the young person consents to, or responds to, the communication is immaterial.
- “(3) It is a defence to a charge under subsection (1) if the person charged proves that,—
- “(a) before a communication described in subsection (1) occurred, they took reasonable steps to find out whether the young person was of or over the age of 16 years; and
 - “(b) at the time the communication occurred, they believed on reasonable grounds that the young person was of or over the age of 16 years.
- “(4) In this section, **communicate** includes communicating directly or indirectly, for example, through a third person.
- “(5) In this section and section 164C, a person is **intending to sexually exploit** a young person if they intend to do 1 or both of the following:
- “(a) procure from the young person a still or moving image of—
 - “(i) the young person’s genitalia, anus, or female breasts; or
 - “(ii) the young person in a sexual pose or engaged in real or simulated sexual activity;
 - “(b) facilitate the young person engaging or being involved in conduct that would be an offence against any of sections 163 to 164A (sections 36 to 37A of the Criminal Law Code).

“164C Meeting young person for sexual conduct following grooming

- “(1) A person aged 18 years or over is liable to imprisonment for a term not exceeding 7 years if, having met or communicated with a person under the age of 16 years (the **young person**) on an earlier occasion, they take 1 or more of the following actions intending to sexually exploit the young person:
- “(a) meeting the young person;
 - “(b) travelling to meet the young person;
 - “(c) arranging for or persuading the young person to travel to meet with them.

- “(2) Whether any sexual activity takes place, or the young person consents to any sexual activity, or any image is procured is immaterial.
- “(3) It is a defence to a charge under subsection (1) if the person charged proves that,—
- “(a) before 1 or more of the actions described in subsection (1)(a) to (c) occurred, they took reasonable steps to find out whether the young person was of or over the age of 16 years; and
 - “(b) at the time the action occurred, they believed on reasonable grounds that the young person was of or over the age of 16 years.
- “(4) In this section, **communicated** includes having communicated directly or indirectly, for example, through a third person.

“164D When authorised person to be treated as young person for purposes of sections 164B and 164C

- “(1) An authorised person is to be treated as a young person for the purposes of section 164B or 164C if—
- “(a) the authorised person pretends to be a person under the age of 16 years; and
 - “(b) the offender, when communicating with a young person as described in section 164B(1) or taking an action described in section 164C(1)(a) to (c), believed that the authorised person was a person under the age of 16 years.
- “(2) In this section, **authorised person**—
- “(a) means a person—
 - “(i) who is authorised by the Chief of Police to pretend to be a person under the age of 16 years and engage in conversations with other persons to investigate the criminal behaviour described in section 164B or 164C; and
 - “(ii) who the Chief of Police is satisfied has the appropriate skills and experience to do that type of investigation:
 - “(b) includes a person who does that type of investigation in another jurisdiction and who is authorised by the Chief of Police under paragraph (a) to do so in Niue.

“164E Child abuse material

- “(1) A person is liable to imprisonment for a term not exceeding 10 years if they—
- “(a) intentionally do 1 or more of the following:
 - “(i) produce child abuse material:
 - “(ii) offer or make available child abuse material:
 - “(iii) distribute or transmit child abuse material:

- “(iv) procure or obtain child abuse material:
 - “(v) possess child abuse material:
 - “(vi) access child abuse material through a computer system; or
 - “(b) do any of the things listed in paragraph (a)(i) to (vi) and are reckless about whether the material is child abuse material.
- “(2) An assessment by an expert assessor that material is child abuse material (including that reasonable persons would, in all the circumstances, regard the material as offensive) is conclusive evidence that it is child abuse material for the purpose of proceedings. In the absence of such evidence, the matter is to be decided by a judge.
- “(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves that –
 - “(a) they engaged in the conduct for bona fide educational, research, law enforcement, or medical purposes; and
 - “(b) they stored the material securely so that it could be used only for the relevant purpose; and
 - “(c) if the conduct was the distribution or transmission of child abuse material, they took all reasonable steps to ensure that the distributed or transmitted material was destroyed as soon as practicable after it was no longer needed for the relevant purpose; and
 - “(d) if the conduct was the procuring or obtaining of, possession of, or accessing through a computer system, child abuse material, they destroyed any material in their possession or removed it, or means of access to it, on the computer system as soon as practicable after it was no longer needed for the relevant purpose.
- “(4) In this section, –
 - “**child** means a person who is under the age of 18 years
 - “**child abuse material** means any of the following material if reasonable persons would, in all the circumstances, regard it as offensive:
 - “(a) material that depicts, presents, represents, or describes a child, or a person appearing to be a child, as a victim of torture, cruelty, or physical abuse:
 - “(b) material that depicts, presents, represents, or describes a child, or a person appearing to be a child, engaged in a sexual pose or real or simulated sexual activity (whether or not in the presence of other persons):
 - “(c) material that depicts, presents, represents, or describes a child, or a person appearing to be a child, in the presence of a person who is engaged in a sexual pose or real or simulated sexual activity:

“(d) material the dominant characteristic of which is the depiction, presentation, representation, or description, for a sexual purpose, of—

“(i) the genitalia or anal region of a person who is, or appears to be, a child; or

“(ii) the breasts of a person who is, or appears to be, a female child

“**computer data** means any representation of facts, information, or concepts in a form suitable for processing in a computer system, including a program suitable to cause a computer system to perform a function (whether by wire or wirelessly)

“**computer system** means a device or group of interconnected or related devices that, in accordance with a program, performs automatic processing of computer data

“**expert assessor**—

“(a) means a person—

“(i) who is authorised by the Chief of Police to make assessments of whether material is child abuse material; and

“(ii) who the Chief of Police is satisfied has the appropriate skills and experience to make that assessment:

“(b) includes a person who makes that type of assessment in another jurisdiction and who is authorised by the Chief of Police under paragraph (a) to do so in Niue.

“(5) This section applies to material contained on or in any medium including on paper or in electronic form.”

Electronic evidence

5 New section 289A inserted (Admissibility of electronic evidence)

After section 289, insert:

“289A Admissibility of electronic evidence

“(1) In any proceedings, the fact that evidence has been generated from a computer system does not by itself prevent that evidence from being admissible.

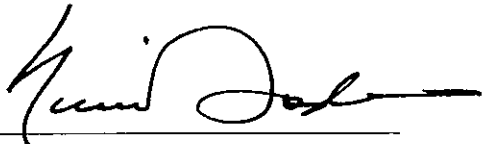
“(2) This section does not limit section 289.

“(3) In this section, —

“**computer system** means a device or group of interconnected or related devices that, in accordance with a program, performs automatic processing of computer data.”

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

SIGNED AND SEALED at the Assembly Chambers this 4th day of February 2026.


Speaker of the Niue Assembly

COUNTERSIGNED in the presence of the Speaker

M Douglas
Clerk of the Niue Assembly



This Act is administered by the Niue Police Department.
This Act was passed by the Niue Assembly on the 4th day of February 2026.