

NIUE LAWS

TAU FAKATUFONO-TOHI A NIUE

LEGISLATION AS AT 31 DECEMBER 2019

VOLUME 4
TOHI 4

SUBSIDIARY LEGISLATION

Government of Niue
Alofi 2020

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EDITORIAL NOTE

The *Niue Legislation 2019* was prepared under the Reprint of Statutes Act 1991 as a statement of the legislation of Niue as at 31 December 2019. This is a four volume collection:

Volumes 1, 2 and 3 presents the consolidated statutes.

Volume 4 presents the consolidated subsidiary legislation.

The four volumes are complemented by a volume with the Constitution and related materials, and by a booklet of Legislation Tables as at 31 December 2019.

The six books supersede the *Niue Laws 2006* and the two reprints of 2007 – the Criminal Law Code and the Family Law Code.

Exceptionally, some legislation has not been reproduced in the four volumes of this reprint. Where that is the case, the text is annotated at the appropriate place. The prime examples of omissions are Acts which deal with treaty arrangements. In such cases, the texts are not of everyday use to the operation of the legal system and are readily available for public access on the internet. Other examples of omissions are the substantial bodies of law which deal in detail with particular areas of administration.

ARMS

ARMS REGISTRATION (FEES) REGULATIONS 2005

2005/1 – 24 June 2003

1 Title

These are the Arms (Fees) Regulations 2005.

2 Fees for permits and certificates

The fees payable for the issue of permits and certificates –

Permit to import firearm	\$80.00
Certificate to register firearm for the first time	\$30.00
Annual licence	\$15.00

FIREARMS SAFETY REGULATIONS 2007

2007/7 – 5 September 2007

1 Title

These are the Firearms Safety Regulations 2007.

2 Interpretation

In these Regulations-

"Act" means the Arms Act 1975.

3 Registration of firearms safety requirement

For the registration of a firearm under sections 6 and 7 of the Act, the owner shall

–

- (a) produce evidence of attendance at a Police firearm safety seminar; and
- (b) by practical test or by other evidence, satisfy the Arms Officer that the owner has appropriate knowledge of firearms safety.

BIOSECURITY

ANIMAL QUARANTINE (DISEASE CONTROL) REGULATIONS 1991

1991/2 – 1 September 1991

1	Title	5	Preventing foreign disease outbreaks
2	Interpretation	6	Dealing with endemic or foreign diseases or pests
3	Powers of authorised officers		
4	Eradication of endemic diseases or pests	7	Offences and penalties

1 Title

These are the Animal Quarantine (Disease Control) Regulations 1991.

2 Interpretation

(1) In these regulations –

“authorised officer” means a Quarantine Officer, Livestock Officer or other person authorised by the Director of Agriculture to act under these Regulations;

“Director” means the Director of Agriculture;

“endemic disease or pest” means an animal disease or pest which is known to be present in Niue;

“foreign disease or pest” means an animal disease or pest which is not known to be present in Niue;

“Minister” means the Minister of Agriculture.

(2) Terms and expressions defined in the Biosecurity Act 2016 shall, when used in these Regulations, have the meanings so defined unless the context otherwise requires.

3 Powers of authorised officers

An authorised officer may –

- (a) Direct that the owner or person in charge of any animal gather and restrain the animal for the purpose of examination, testing, medication, vaccination or other measure which is considered necessary for the diagnosis of disease or pests or the prevention of the occurrence or the spread of disease or pests;
- (b) Apply to an animal any diagnostic tests for disease or take tissue or other specimens from an animal for the purpose of diagnostic tests;
- (c) Kill any animal which is diseased or suspect to be diseased for the purpose of conducting an autopsy or obtaining specimens for diagnostic purposes;
- (d) Direct that an animal or animal product which is diseased or is suspected of being diseased or infected be isolated from other animals or animal products or one from the other;
- (e) Direct that any herd or flock of animals suspected of being diseased or infected by pests, be placed in quarantine;
- (f) Direct that any land that contains or has contained any animal suspected of being diseased or infected, or pests, be placed in quarantine;

- (g) Direct that any animal or herd or flock of animals be medicated, vaccinated, managed or otherwise dealt with in order to prevent the occurrence of or to eradicate or control, or to minimise the spread of any disease or pest;
- (h) Direct that any land, premises or conveyance be cleaned, disinfected or treated in a specified way.

4 Eradication of endemic diseases or pests

Where the Director with the approval of the Minister is of the opinion that a disease or pest already present in Niue should be controlled or eradicated, the Director may cause –

- (a) The owner or person in charge of any animals to gather together those animals as often as may be specified and restrain them in suitable facilities so that an authorised officer can examine, identify, medicate, vaccinate, and sample the animals or subject them to diagnostic tests;
- (b) Any animal which is found to be diseased or infected or affected by pests to be medicated or destroyed or otherwise disposed of;
- (c) Any land, premises or goods exposed to diseased or infected animals or harbouring pests to be treated or disposed of in a specified manner.

5 Preventing foreign disease outbreaks

If it seems to the Minister likely that a foreign animal disease or pest has been or may be introduced into Niue, the Minister may –

- (a) Impose prohibitions or restrictions on the movement of animals, animal products, fodder, fittings and other things as may be specified, into, out of, or within any part of or the whole of Niue;
- (b) Cause animals of a designated type to be medicated, vaccinated, restrained, fed or otherwise managed in a specified manner;
- (c) Cause land, premises, conveyances or other thing to be destocked, cleaned, disinfected or otherwise treated or their use prohibited totally.

6 Dealing with endemic or foreign diseases or pests

(1) If an authorised officer has reasonable cause to believe that any animals on any land or in any premises are diseased or infected or affected by pests he may quarantine that land by issuing an Infected Place Notice to the owner or person in charge of the land.

(2) Whilst any land is subject to an Infected Place Notice, no animal, animal product, animal excreta, fodder, fittings or other thing as may be specified in the notice may be moved off that land without the permission of an authorised person and subject to conditions which he may specify.

(3) An authorised officer may medicate, vaccinate or destroy any diseased or infected animal, and order the cleaning, disinfection or other treatment of premises, conveyances or other things in an infected place.

(4) Subsequent to an infected place being declared, the Director may declare a disease control area including that infected place and comprising part or the whole of Niue.

(5) Whilst a disease control area is in effect, no animal, animal product, fodder, fitting or other thing as may be specified in the declaration may be moved out of, into or within the disease control area without the permission of an authorised person and subject to such conditions as may be imposed.

(6) Any wild or feral animal the presence of which is or may be detrimental to the effective control of an animal disease or pest may be eliminated by authority of the Director acting with the approval of the Minister.

7 Offences and penalties

(1) Every person commits an offence who acts in contravention of any of these regulations, or who fails to observe a reasonable direction of the Minister of Agriculture, Director or other authorised officer under these regulations.

(2) Every person who commits an offence against these regulations is liable upon conviction to a fine not exceeding 5 penalty units or to a term of imprisonment not exceeding 12 months, or to both such fine and imprisonment.

AGRICULTURE QUARANTINE (FEES) REGULATIONS 2007

2007/9 – 4 October 2007

1 Title

These are the Agriculture Quarantine (Fees) Regulations 2007.

2 Fees

The fees prescribed for the purposes of the Biosecurity Act 2016 are set out in the Schedule.

3 [Spent]

SCHEDULE

Honey Certificate for Commercial and Private Exporter	\$10.00
Phytosanitary Certificate for Commercial and Private Exporter	\$7.00
Inspection Fee for each additional package in excess of one (1)	\$1.00 per package
Inspection Fee – one (1) shipping container for commercial exporter	\$85.00
Application for Import Permit of Meat Products for private importer for six (6) months	\$10.00
Grant of Import Permit of Meat Products for private importer for six (6) months	\$40.00
Application for Import Permit of Meat Products for commercial importer for six (6) months	\$20.00
Grant of Import Permit of Meat Products for commercial importer for six (6) months	\$50.00
Application for Permit to Import Animal(s) (including semen or ova of an animal) for private importer for six (6) months	\$20.00
Grant of Permit to Import Animal(s) (including semen or ova of an animal) for private importer for six (6) months	\$50.00
Application for Permit to Import Animal(s) (including semen or ova of an animal) for commercial importer for six (6) months	\$20.00
Grant of Permit to Import Animal(s) (including semen or ova of an animal) for commercial importer for six (6) months	\$50.00
Garbage disposal per yacht	\$10.00
Garbage disposal for ships per port visit	\$30.00
Garbage disposal for aircraft per flight	\$25.00
Inspection fee per empty container/tanktainer for export	\$5.00
Quarantine Declaration Certificate	\$10.00

Biosecurity

Used Equipment Certificate	\$10.00
Grant of permit to import biological products or organisms	\$20.00
Application for Permit to Import Plant(s) for six (6) months (Private Importer)	\$10.00
Grant of Permit to Import Plant(s) for six (6) months (Private Importer)	\$10.00
Treatment of Plant(s) per consignment	\$80.00
Application to Import Fruits and Vegetables for commercial importer for six (6) months	\$20.00
Grant of Permit to Import Fruits and Vegetables for commercial importer for six (6) months	\$50.00

AGRICULTURE QUARANTINE (PREVENTION OF ANIMAL DISEASE) REGULATIONS 1991

1991/4 – 1 September 1991

1	Short title	9	Further action may be directed
2	Interpretation	10	Disposal of garbage
3	Importation of animals	11	Stores not to be introduced
4	Importation of certain animals prohibited	12	Disinfection
5	Importation of animal products, biological products and organisms	13	Feeding of pigs and poultry
6	Importation of vehicles	14	Management of rubbish dumps
7	Introduction of fodder, crates	15	No liability to Crown
8	Introduction of animal excreta	16	Offences and penalties

1 Title

These are the Agriculture Quarantine (Prevention of Animal Disease) Regulations 1991.

2 Interpretation

Terms and expressions defined in the Biosecurity Act 2016 shall, when used in these regulations, have the meanings so defined unless the context otherwise requires.

3 Importation of animals

(1) No animal, or semen or ova of an animal shall be imported into Niue, except pursuant to and in accordance with the terms and conditions of a permit issued by or under the authority of the Director.

(2) Every person wishing to import an animal or semen or ova of an animal shall apply in writing to the director for a permit to import such animal semen or ova, such application to be in such form as may from time to time be required by the Director.

(3) The Director may approve or refuse any application made under paragraph (2), or may approve such application subject to such conditions as the Director thinks fit to impose.

(4) Without limiting the generality of the Director's discretion to impose conditions under paragraph (3), such condition may include conditions relating to –

- (a) Origin and general health;
- (b) Diagnostic tests, medication or vaccinations;
- (c) Periods of, or type of quarantine to be observed in the country of origin, or in transit to or within Niue;
- (d) Such post-entry conditions as the Director thinks fit in relation to quarantine (location and period) diagnostic tests, medication and vaccinations as the Director may require.
- (e) Such other requirements as in the opinion of the Director are necessary to prevent the introduction of animal diseases or pests.

(5) Every person who imports an animal, or semen or ova of an animal otherwise than under the requirements of this section commits an offence and shall on conviction be liable to a fine not exceeding 5 penalty units.

(6) Upon a conviction being entered under paragraph (5), the Court may, in addition to any other penalty, order the animal, semen or ova as the case may be, to be

re-shipped to the country of origin or destroyed or otherwise disposed of at the expense of the importer as the Court may specify.

(7) Notwithstanding any other provision of this clause, the Director may at any time order the re-shipment destruction or disposal of any animal, semen or ova of an animal which has been imported into Niue where the Director is of the opinion that notwithstanding any quarantine, vaccination or other precaution that may have been taken, the animal, semen or ova is likely to introduce disease into Niue.

4 Importation of certain animals prohibited

Notwithstanding any other provisions of these Regulations, the Director shall not issue a permit for the import of any animal, or semen, or ova of an animal which in the opinion of the Director is venomous, environmentally damaging, or is or is likely to be a nuisance in Niue.

5 Importation of animal products, biological products and organisms

(1) No animal product, biological product, or organism shall be imported into Niue except pursuant to and in accordance with the terms and conditions of a permit issued by or under the authority of the Director.

(2) Every person wishing to import an animal product, biological product or organism shall apply in writing to the director for a permit such animal product, biological product or organism, such application to be in such form as may be required by the Director.

(3) The Director may approve or refuse any application made under paragraph (2), or may approve such application subject to such conditions as the Director thinks fit to impose.

(4) Without limiting the generality of the Director's discretion to impose conditions under paragraph (3), such conditions may include conditions relating to –

- (a) Origin and general health;
- (b) Diagnostic tests, treatment and storage (including packaging);
- (c) Periods of, or type of quarantine to be observed in the country of origin, or in transit to or within Niue;
- (d) Such post-entry conditions as the Director thinks fit in relation to diagnostic tests, packing, and quarantine (location and period) as the Director may require;
- (e) Such other requirements as in the opinion of the Director are necessary to prevent the introduction of animal diseases or pests.

6 Importation of vehicles

(1) No vehicle, farm implement or equipment, goods or chattels of any kind which have been on a farm or used in connection with animals or animal products shall be imported into Niue unless –

- (a) Properly cleaned in the country of origin; and
- (b) Accompanied on arrival in Niue by a certificate of treatment in a form approved by the Director which indicates to the satisfaction of the Director that the goods have been so cleaned.

(2) Notwithstanding paragraph (1), the Director may require any goods to which this section applies, to be cleaned prior to release in Niue where the Director is of the opinion that the goods have not been properly cleaned prior to arrival.

7 Introduction of fodder, crates

(1) No animal fodder, crate, harness, bedding or goods of any kind which have accompanied or been used or have come into contact with any animal product,

biological product or organism shall be imported into Niue except with the approval of the Director, and under the terms and conditions imposed by the Director.

(2) In granting any approval under paragraph (1), the Director may impose such terms and conditions as the Director thinks fit, including terms and conditions relating to the treatment, disinfection, destruction or other disposal of the goods.

8 Introduction of animal excreta

(1) No animal excreta, urine or other secretion, hair or other tissue shall be imported into Niue except with the approval of the Director, and under the terms and conditions imposed by the Director.

(2) In granting any approval under paragraph (1), the Director may impose such terms and conditions as the Director thinks fit, including terms and conditions relating to the treatment, disinfection, destruction or other disposal of the goods.

9 Further action may be directed

Notwithstanding any other of these Regulations, the Director may on the importation of any animal or any time thereafter, require any examination, diagnostic testing, medication, vaccination or other action in respect of the imported animal or its progeny, or its destruction; or any treatment, fumigation or sterilisation of any animal product or biological product or organism, or its destruction; or any cleaning, disinfection or other treatment of any equipment, vehicles, conveyances, fittings, clothing, goods or other things that have been or may have been in direct or indirect contact with any animal, or their destruction, if in the opinion of the Director there are reasonable grounds for doing so for the purpose of preventing the introduction of disease or pests into Niue.

10 Disposal of garbage

(1) No person shall permit any refuse or garbage, or material which has been in contact with refuse or garbage, to be unloaded from a ship, aircraft or other conveyance arriving in Niue from any other country unless such refuse garbage or material is handled, incinerated and treated, or otherwise disposed of in a manner or approved by the Director, acting in consultation with the Director of Health.

(2) The cost of handling, incineration treatment or other disposal under paragraph (1), may be recovered from the owner, operator, charterer, or agent of any such person, of the ship or aircraft.

(3) Except as provided in paragraph (1), no refuse, garbage or rubbish from any conveyance shall be disposed of in the territorial waters of Niue.

11 Stores not to be introduced

(1) No person shall –

- (a) Introduce or permit to be introduced into Niue, meat and eggs or other food containing material of animal origin that constitute food provisions of ships, aircraft or other conveyances; or
- (b) Use or permit to be used such meat, eggs or other food as aforesaid as bait for fishing; or
- (c) Dispose or permit to be disposed of such meat eggs or other food into the territorial waters of Niue.

(2) The Director may require that the lockers or food stores of a ship or aircraft be sealed whilst on Niue or within Niuean territorial limits, to ensure compliance with paragraph (1).

12 Disinfection

(1) The Director may require any ship, aircraft or other conveyance arriving in Niue to be treated, cleaned or disinfected or disinfected or fumigated as the Director considers necessary to prevent the possible introduction of disease or pests.

(2) The cost of the treatment, cleaning, disinfection, disinsection or fumigation may be recovered from the owner, operator, charterer, or agent of the conveyance as a debt due to the Crown.

13 Feeding of pigs and poultry

(1) The Director may prescribe measures for the management and control of pigs and poultry, including containment, feeding, medication, vaccination or other measures which the Director considers necessary to prevent the introduction or spread of disease, parasites or pests.

(2) The Director may require that before feeding to pigs or poultry all garbage, kitchen scraps, waste food and the like, or other food containing or consisting of meat or fish or other animal products, from hotels, motels, hospitals, prisons, restaurants, food bars, and like sources be heat treated to the extent prescribed, or otherwise treated in a manner approved by the Director as the Director considers necessary to prevent the introduction or spread of disease or parasites.

14 Management of rubbish dumps

The Director may require the owner, occupier or user of a rubbish dump to ensure that the rubbish dump is covered regularly or fenced off or otherwise managed in such a way as to minimise pigs, poultry or dogs gaining access to refuse or rubbish which contains meat, or other animal products or animal carcasses.

15 No liability to Crown

(1) No cost to an owner, operator, charterer or agent in carrying out any requirement of these Regulations shall be recoverable from the Crown.

(2) If any owner, operator, charterer or agent fails to carry out any requirement of these Regulations the Director or a Quarantine Officer may arrange for the necessary work to be done and recover the cost from the owner, operator, charterer or agent as a debt due to the Crown.

16 Offences and penalties

(1) Every person who fails to comply with or acts in contravention of any provision of these Regulations commits an offence.

(2) Every person who fails to obey a direction given by the Director, a Quarantine Officer or other authorised officer or his assistant under these Regulations, or who fails to provide truthfully and fully any information pertinent to these Regulations required of him by the Director or a Quarantine Officer, commits an offence.

(3) Every person who commits an offence against any of these Regulations is liable on conviction to a fine not exceeding 5 penalty units or a term of imprisonment not exceeding 12 months, or to both such fine and imprisonment.

PLANT QUARANTINE REGULATIONS 1985

1985 – 1 January 1986

- 1 Title
- 2 Interpretation

PART 1

GENERAL REQUIREMENTS

- 3 Points of entry
- 4 Inspection of plant or non-plant material
- 5 Requirements of all persons entering Niue in possession of plant material and regulated material
- 6 Placement in quarantine
- 7 Treatment
- 8 Release of plants, plant material or goods
- 9 Transport, storage, unpacking treatment
- 10 Seizure and destruction
- 11 Disposal of plant material
- 12 Inspection and treatment of conveyances
- 13 Applications for permits
- 14 Plant quarantine forms
- 15 Official introduction by Government
- 16 Permit to land
- 17 Quarantine for live plants

PART 2

ENTRY OF PLANTS, PLANT MATERIAL, PESTS, GOODS

- 18 Entry of plant material capable of growth

- 19 Entry of seed
- 20 Entry of fruits and vegetables
- 21 Entry of timber
- 22 Entry of cut and dried flowers
- 23 Entry of plant material not capable of growth
- 24 Entry of soil
- 25 Entry of non-plant articles
- 26 Vessels from areas where rhinoceros beetle occurs
- 27 Entry of pests or cultures
- 28 Entry of tissue culture of plants
- 29 Entry of honey bees
- 30 Entry of material for research purposes
- 31 Entry of packing material, used or second hand bags and dunnage
- 32 Entry of handicrafts made from plant material
- 33 Exclusion of liability

PART 3

GENERAL PROVISIONS

- 34 Specific prohibitions and restrictions
- 35 Emergency powers
- 36 Export requirements
- 37 Fees

SCHEDEULE

1 Title

These are the Plant Quarantine Regulations 1985.

2 Interpretation

In these Regulations –

“Act” means the Biosecurity Act 2016;

“as prescribed” means any procedure or treatment as detailed by the Director or contained in a manual or official treatment schedule approved by the Director;

“baggage” means any goods brought into the country by a passenger arriving by sea or by air from overseas;

“contamination” means any infection or infestation by plant disease or pest or having an association with unauthorised plant material or soil;

“conveyance” means any kind of vehicle which may travel by land, sea or air and includes a cargo container;

“Declaration” means a written statement concerning any animal, animal product, plant or plant material or any other goods restricted or prohibited under the Act;

“Director” has the same meaning as in section 3 of the Act;

“disease” has the same meaning as in section 3 of the Act;

Biosecurity

“dunnage” means timber, usually low grade, used for stowing goods in conveyances such as vessels or cargo containers;

“first point of entry” means the designated location through which plants, plant material and other regulated goods may enter the country from overseas;

“fruit” means the edible product of any plant whether attached to the plant or not and includes any peel, skin, shell or seeds, whether edible or not, as well as vegetables;

“goods” means any movable property involving a quarantine hazard;

“import” means to introduce into Niue from any place outside of Niue whether by sea or air;

“infected” has the same meaning as in section 3 of the Act;

“land” includes any area, field, farm, garden, orchard, nursery, hothouse, shadehouse, cool store, dwellinghouse, shop, building, room or other place or premises and references to land extend to and include any harbour, highway, road, wharf, port or airport;

“noxious weed” means a plant declared by Cabinet to be harmful and subject to quarantine control;

“owner” means the person, corporate body or organisation, responsible for plants, plant material, pests, diseases, goods or soil, because he, she or it is the owner or the owner’s agent or the person to whom these are consigned, or by whom they are being exported or the person, corporate body or organisation in charge of the conveyance in which plants, plant material, goods, pests, diseases or soil are being carried or have been carried;

“packing material” includes items not necessarily of animal or plant origin but which have been enclosed with the consignment during transport;

“permit” has the same meaning as in section 3 of the Act;

“pest” has the same meaning as in section 3 of the Act;

“plant” has the same meaning as in section 3 of the Act;

“plant material” includes any fruit, seed, spore and portion or product of any plant unless, by any manufacturing process, it has been rendered free from all diseases and pests and has been made incapable of carrying any disease or pest;

“phytosanitary certificate” means an official certificate issued by an authorised quarantine officer, substantially in the format of the Model Certificate of the International Plant Protection convention, attesting that the plant, to which it refers, has been inspected and found free from quarantine pests and substantially free from other injurious pests;

“quarantine area” means any land where a specified adjoining land by the Cabinet to be a quarantine area (for a prescribed period of time);

“quarantine pest or disease” means a pest or disease of potential national economic importance to the country endangered thereby and not yet presented there or present but not widely distributed and being actively controlled;

“quarantine officer” means any officer appointed as such and includes an assistant;

“refuse” means any garbage or waste material, rubbish or packing whether or not of animal or plant origin;

“regulated material” means such plants, plant material, garbage, soil and other items that come within the provision of the Act;

“re-export” means to remove or ship plant material from Niue as a means of removing the pest and disease risk;

“soil” includes earth, water, peat, compost, sand, clay and any other substance capable of supporting plant life or transmitting disease or pest whether or not used or intended to be used as a growing medium or in any process of manufacture, or as a ballast or for any purpose whatsoever;

“timber” means logs, poles, dunnage, branchwood, firewood, bark and all wood which has been split, hewn, sawn or dressed but not otherwise manufactured and includes pre-fabricated building units, shakes, shingles, and wooden cases or boxes; “treatment” has the same meaning as in section 3 of the Act.

PART 1

GENERAL REQUIREMENTS

3 Points of entry

No plant material or other regulated material may be imported into Niue except through the port of Alofi, the Hanan International Airport, the Post Office at Alofi, or such other places as may be notified by the Cabinet.

4 Inspection of plant or non-plant material

(1) All plant material, all fruit and vegetables or any other plant or any goods the entry of which presents a risk of pest or disease to Niue in the opinion of the quarantine officer and if necessary, shall be subject to treatment for the prevention of entry of disease or pest or if necessary, shall be subject to destruction or re-exported to the country of origin as the case may be.

(2) All treatments are performed at the risk of the importer or his agent.

(3) Any goods include all passenger's baggage, personal effects and clothing as well as vehicles, containers, drums and anything liable to carry a pest or disease of plants.

5 Requirements of all persons entering Niue in possession of plant material and regulated material

(1) Every person arriving from overseas shall be required to make a declaration in respect of plants, plant material, soil, culture or any other thing the subject of these Regulations.

(2) No person shall introduce into Niue any plant, plant material, or any other thing the subject of these Regulations unless these Regulations have been duly complied with in respect of plant material or other regulated material.

6 Placement in quarantine

Where a quarantine officer is not satisfied that the imported plants, plant material or goods are free of diseases and pests, which, in his opinion constitute a risk to Niue, he shall advise Customs that the plants, planting material or goods are to be held under Customs and Post Office control until such time as the quarantine officer is satisfied that the disease or pest has been eliminated.

7 Treatment

Where a quarantine officer has detained imported plants, plant material or goods on the evidence of infection, or suspected infection he may order a treatment as prescribed at the importer's expense.

8 Release of plants, plant material or goods

Provided all other requirements of these Regulations for the imported plant, plant material or goods have been met and subsequent to satisfactory inspection or satisfactory conclusion of a treatment as prescribed, the quarantine officer shall advise Customs and Post Office that all requirements of these Regulations have been met and that the imported plants, plant material or goods may be released to the importer or owner.

9 Transport, storage, unpacking, treatment

Prior to the release of any imported plant, plant material or goods the importer or owner may be required by the Director to provide for or meet the cost of transport, unpacking, security storage, and treatment as prescribed including cleaning and sorting.

10 Seizure and destruction

Any illegally imported plant, plant material including seeds, fruits, and vegetables or regulated material without a permit may be seized by a quarantine officer and treated by destruction by order of the senior quarantine officer.

11 Disposal of plant material

Any plant, plant material or goods imported under these Regulations but on examination or re-examination the quarantine officer is satisfied that the plant, plant material or goods is carrying or liable to be carrying a pest or disease and in his opinion cannot be effectively treated to eradicate the pest or disease and if, within a specified period of notification designated by the Director, the importer has not re-exported or re-shipped the plant, plant material or goods the Director shall order the destruction of the consignment of imported plants, plant material or goods.

12 Inspection and treatment of conveyances

(1) Immediately on the arrival of any conveyance from any overseas country, the conveyance together with its cargo and baggage may be inspected, examined, and ordered for treatment by a quarantine officer and no person shall enter the conveyance or remove any baggage or cargo from the conveyance without the authority of the quarantine officer until the inspection, examination or treatment is completed.

(2) The inspection and treatment may include inspection of conveyance, its cargo and stores as well as treatment if necessary at the expense of the owner of the conveyance and the spraying of every compartment of any conveyance as prescribed.

13 Applications for permits

(1) Applications for permits to import shall require specific information including –

- (a) Full name, residential address and postal address of the importer;
- (b) Name and address of exporter or persons from whom plant or plant material will be obtained;
- (c) Quantity and name (botanical name if approximate) of all material proposed to import;
- (d) Mode of transport, point of entry and approximate date of arrival.

(2) In granting any permits the Director shall give approval to import and indicate conditions to be met to satisfy quarantine requirements.

14 Plant quarantine forms

The Director may devise such forms which are to be used by importers desiring to import plant or plant material.

15 Official introduction by Government

(1) Official importations by the Director are exempt from the prohibitions and restrictions hereafter in these Regulations.

(2) Such importations are to be subject to measures prescribed by the Director to ensure absolute prevention of entry and dissemination of pests and diseases.

16 Permit to land

A quarantine officer may issue a permit to land for any plants, plant material or goods to enable inspection and treatment for quarantine purposes to be undertaken.

17 Quarantine for live plants

In lieu of post-entry quarantine for live plants the Director may prescribe a period of intermediate quarantine at an approved location overseas where the plant material is to be established and screened as if undergoing post-entry quarantine.

PART 2

ENTRY OF PLANTS, PLANT MATERIAL, PESTS, GOODS

18 Entry of plant material capable of growth

(1) The entry of plants and planting material including cuttings, budwood, stocks, tubers, corms, bulbs, suckers other than seed is limited to the smallest quantity of propagating material consistent with good horticultural practices and satisfactory establishment of the introduced cultivar.

(2) No live plants or planting material shall be introduced unless a permit has been obtained from the Director in advance of arranging the import.

(3) Plants which have satisfactorily cleared intermediate quarantine at an approved overseas location may be approved for import into Niue provided they are free of soil, fumigated on arrival and established at an approved place.

(4) When the Director is satisfied that the imported plants are free of pest and disease he may release them to the importer.

19 Entry of seed

(1) No agricultural or forest tree seed, except commercially packed flower and vegetable seed other than tomato seed, and bean shall be introduced unless a permit from the Director has been obtained.

(2) The entry of forest tree species is restricted to seeds which are inspected and treated as prescribed.

(3) (a) All seed shall be free from injurious extraneous matter including notified noxious weeds and shall be subject to such conditions as the Director considers fit to require.

(b) All seed except flower and vegetable seed other than tomato and bean shall be accompanied by a photosanitary certificate and other specified accompanying documentation may include a seed analysis report from the country of origin specifying extraneous foreign seeds and materials.

(c) Upon arrival samples of seed may be taken for examination and if necessary, in the opinion of the quarantine officer, treatment shall be applied as prescribed.

(4) Seeds of annual crops with specifically restricted entry, such as peanuts and maize, are to be grown overseas at an approved intermediate quarantine and only seed produced in intermediate quarantine with no evidence of disease is to be imported for release.

(5) Seeds such as citrus, coffee, coconut, cassava, sweet potato, taro, provided they are from reliable sources approved by the Director, may be imported, treated as directed prescribed, and grown at a location approved by the Director prior to release.

(6) Seeds of tomato should be treated as prescribed before release.

(7) Seeds of beans (*Phaseolus* spp) may be required to have a certificate of freedom from seed borne diseases.

20 Entry of fruits and vegetables

(1) (a) A permit must be obtained in advance for each importation of admissible fresh fruit and vegetables.

(b) Admissibility of fresh fruit and vegetables will be determined by the Director when an application for a permit is submitted.

(c) Entry status will be determined according to the pests present in the exporting country.

(2) Importation of susceptible soft fleshy fruits and vegetables is prohibited from all countries or parts of countries where dangerous fruit flies are known to occur unless satisfactory treatments can be undertaken.

(3) Upon arrival any admissible fresh fruit and vegetables shall be examined by a quarantine officer and if a pest or disease is detected treatment as prescribed shall be applied before the fruit or vegetables are released to the importer.

(4) Fresh fruit and vegetables without permits are to be seized and destroyed.

(5) Frozen fruits and vegetables as well as canned or hermetically preserved fruit and vegetables are admissible without permit.

(6) Dried or candied fruits and nuts and vegetables that have been prepared in such a manner as to make them innocuous as pest carriers and are not otherwise prohibited may enter without permit subject to inspection for verification of their condition and freedom from pests.

21 Entry of timber

(1) Any timber imported from overseas shall be inspected for pests and contamination.

(2) Where pests of concern or contamination such as bark are detected, treatment as prescribed shall be required by the quarantine officer.

(3) All treatments shall be undertaken at the expense of the owner, importer or agent and to the satisfaction of the quarantine officer before release from quarantine is authorised.

22 Entry of cut and dried flowers

(1) Subject to these Regulations any cut flower, including foliage, may be imported, if on inspection at the point of entry for the cut flowers are free from pests and to contain no material capable of propagation.

(2) Subject to these Regulations any dried flower, including foliage, may be introduced, if on inspection at the point of entry for the dried flowers are free from pests but no dried flower of a plant producing agricultural seed or any plant specifically prohibited or restricted under these regulations shall be introduced.

23 Entry of plant material not capable of growth

The entry of any plant material or plant product, particularly or wholly manufactured, assessed by the Director as a potential carrier for an exotic serious pest to agriculture or forestry in Niue is subject to permit, inspection and treatment as prescribed if treatment is found necessary.

24 Entry of soil

(1) No person shall import any soil whether by itself or with any plant material or as packing material in any form or adhering to any goods including vehicles and machinery unless the quarantine officer is satisfied that the soil will not introduce any pest.

(2) Notwithstanding paragraph (1) peat, free of contamination with soil, may be admitted subject to inspection.

(3) Soil used in any conveyance as ballast is to be discharged under the directions of the Director or as prescribed.

25 Entry of non-plant articles

Non-plant articles contaminated with soil or infested with pests are subject to such treatments, including cleaning, as directed by the Director or as prescribed.

26 Vessels from areas where rhinoceros beetle occurs

(1) Every ship arriving at Niue from any area infested by the Rhinoceros beetle (*Oryctes rhinoceros* /L/) is required to keep at least one mile from the encircling reef for at least 15 minutes before sunset until at least 15 minutes after sunrise.

(2) All aircraft arriving at Niue from a country infested by Rhinoceros beetle may only land before sunset, except –

- (a) where an aircraft is granted permission by the Director, who in granting permission may require certain conditions to be met before arrival; or
- (b) in the case of an emergency.

27 Entry of pests or cultures

No person shall import any living culture or organism including parasites, predators, arachnids, molluscs, nematodes, fungi, bacteria, mycoplasma, parasitic plant organism, plant pests or other invertebrate animal unless a specific written permit has been issued by the Director in advance of the importation and only in compliance with conditions imposed by such permit.

28 Entry of tissue culture of plants

(1) Tissue cultures of plants may be imported on the basis of a permit from the Director and subject to inspection for contamination on arrival.

(2) Conditions of import may include certification of virus status.

29 Entry of honey bees

(1) The entry of all living stages of honey bee (*Apis spp*) shall be limited to entries under permit from the Director under conditions as prescribed.

(2) Entry of used bee keeping equipment, such as hives and frames, is prohibited.

30 Entry of material for research purposes

(1) Material imported under permit for research purposes is subject to conditions of entry as stated on the permit issued by the Director.

(2) Conditions prescribed by the Director will be those that offer maximum security against pest or disease dissemination.

31 Entry of packing material, used or second hand bags and dunnage

(1) No person shall introduce into Niue as packing any hay, straw, chaff, soil, forest litter or compost.

(2) No person shall receive as packing material any substance except sphagnum moss, woodwool, ground cork, charcoal, shredded paper, perlite, form rubber chips, vegetable fibre free of pulp, granulated plastics or other material approved by the Director.

(3) No second hand or used bags or any such packaging are to be used for the import of any kind of goods.

(4) Any imported timber dunnage is to be treated as prescribed before release or destroyed by incineration.

32 Entry of handicrafts made from plant material

If handicrafts do not contain any material prohibited under these regulations, they may enter subject to inspection and treatment as required.

33 Exclusion of liability

Neither the Department of Agriculture nor any quarantine officer shall be liable for any loss or damage resulting from the exercise of powers under these regulations unless the loss or damage is caused otherwise than in the reasonable exercise of these powers.

PART 3
GENERAL PROVISIONS

34 Specific prohibitions and restrictions

(1) The specific quarantine prohibitions and restrictions contained in the Schedule shall apply in conformity with other conditions prescribed in these Regulations.

(2) Additions may be made by notification from the Cabinet.

35 Emergency powers

If the Cabinet by proclamation under the Biosecurity Act 2016 has declared a state of agriculture emergency throughout all or any part of Niue the emergency measures which may be taken by Cabinet or a person authorised by Cabinet shall include –

- (a) Declaring a specific disease affecting plants (or animals) or pests of plants including noxious weeds to be a quarantine pest or disease;
- (b) Defining a geographical area within Niue as a quarantine area or the whole of Niue as a quarantine area;
- (c) Control by quarantine officers or other authorised persons of the movements of persons, plants, animals or goods into or out of the quarantine area from or to any other part of Niue;
- (d) Authority for the Director to notify in writing to the owner or owners of land the measures to be taken aimed at eradication of the specific quarantine disease or pest and destruction of plants or goods if deemed necessary by the Director;
- (e) Authority for the Department of Agriculture to undertake measures including destruction mentioned in the previous clause if the owner of the land cannot be contacted. The owner shall be obliged to reimburse the Government for the costs incurred;
- (f) Compilation of full details of each case of the owner of land so that compensation, if any, can be properly assessed;
- (g) Provision of a defined period for all the foregoing quarantine measures to operate and provision for extension by Cabinet for further appropriate periods considered necessary.

36 Export requirements

(1) An authorised quarantine officer may issue phytosanitary certificates based on inspection of plants and plant material performed at the request of exporters to aid them in meeting the entry requirements of the importing country.

(2) The certificates are to be issued only for plants or plant material produced in Niue.

(3) The issuance of a phytosanitary certificate in no way releases the importer from compliance with any import regulations of the country to which the plants or plant material are consigned.

(4) The phytosanitary certificate used is to be substantially based on the model adopted by the International Plant Protection Convention of 1951, as amended in 1979.

37 Fees

Any treatment or destruction shall be carried out at the expense of the importer at such rates determined by the Director.

SCHEDULE

1 Banana, abaca and other “musaceae”

(1) The inflow of plants and corms is prohibited.

(2) Tissue cultures may be imported under permit provided these are accompanied by a phytosanitary certificate certifying freedom from virus including Bunchy top disease.

(3) (a) Fruit of banana may be imported only with a permit issued by the Director.

(b) When issuing the permit the Director may stipulate pre-export treatment in the country of origin.

2 Beans (*Phaseolus* spp)

Seed of *Phaseolus* spp is a prohibited import except by permit of the Director.

3 Cassava (*Manihot esculenta*) Crantz

The import of plants of *Manihot esculenta* Crantz is prohibited except that seed and tissue cultures may be imported under permit issued by the Director.

4 Citrus

(1) All planting material including budwood and except fruit and seed is prohibited.

(2) (a) Citrus fruit is prohibited from all countries where Citrus canker (*Xanthomonas campestris* p.v. *Citri* Hasse) Dye occurs.

(b) Citrus fruit may enter only with a permit granted by the Director, issued under conditions he considers appropriate.

(3) Citrus seed free of pulp is permitted entry subject to a permit inspection, and treatment as prescribed.

(4) Citrus includes the following genera: *citropsis*, *citrus*, *eremocitrus*, *fortunella*, *microcitrus*, *monanthocitrus*, *pleurocitrus* and *poncirus*.

5 Coconuts (*Cocos mucifera* L)

(1) Import of seedlings and suckers of all the family *Palmae* is prohibited.

(2) Import of seednuts and pollen is prohibited except by special permit from the Director.

(3) Conditions of the permit include selected approved sources, mandatory growth in quarantine and quantity not to exceed 100 for each line.

(4) No person shall introduce coconuts for consumption or processing unless the consignment was fumigated at the time of shipment or at destination before delivery as prescribed.

6 Coffee (coffee spp)

(1) All planting material of coffee spp except seed is prohibited.

(2) Viable seed may be imported under special permit of the Director from specified selected locations for scientific purposes, treated as prescribed by the Director and grown under close surveillance in quarantine.

7 Ginger (Zingiber officinale Rose)

All plants of the Zingiberaceae family are prohibited except by permit of the Director.

8 Mango (Mangifera indica L)

All plant material of Mangifera indica including fruit is prohibited import except by permit of the Director.

9 Maize (Zea mays L)

(1) All plant material of maize (Zea mays L) except seed is prohibited.

(2) Seed may be imported only by permit issued by the Director.

10 Peanut (Arachis hypogaea L)

All plant material of Arachis hypogaea L is prohibited except for seed which may be imported only with a permit from the Director.

11 Sugar cane (Saccharum officinarum L)

The import of all plant material including the seed of Saccharum officinarum L is prohibited except by permit issued by the Director.

12 Sweet Potato (Ipomoea batatas L Lam)

The importation of plant material of Ipomoea batatas L Lam is prohibited except by permit issued by the Director.

13 Tomato Lycopersicon esculentum Miller

The import of seed of Lycopersicon esculentum Miller is prohibited except by permit of the Director.

14 Pineapple (Ananas cosmostus /L/Merrill)

The import of planting material including the fruit of Ananas cosmostus (1) Merrill is prohibited except by permit issued by the Director.

15 Rubber (Hevea spp)

The import of all plant material including the seed of all species of Hevea is prohibited.

16 Taro and other aroids (Alocasia spp. Colocasia spp. Xanthosomas spp. and Cyrtosperma spp.)

(1) Vegetative planting material is prohibited except by permit issued by the Director with provisions that roots/corms be free of soil, treated and devitalised as prescribed and inspected on arrival.

(2) Seeds and tissue culture may be imported with a permit from the Director under prescribed conditions.

BROADCASTING

BROADCASTING REGULATIONS 1989

1989/1 – 1 July 1989

1	Title	9	Default in payment
2	Interpretation	10	Fees for other services
3	Sitting allowances for Directors	11	Unregistered users
4	Registration of owners of television installations	12	Offence for unlawful use
5	Register to be kept	13	Powers of Corporation to conduct inquiries
6	Effect of registration	14	Powers of Corporation to take legal proceedings
7	Annual fee for television		
8	Payment of annual fee		

SCHEDULE

1 Title

These are the Broadcasting Regulations 1989.

2 Interpretation

(1) In these Regulations –
“Act” means the Broadcasting Act 1989;
“Director” means a Director of the Corporation appointed under section 10 of the Act;
“person” includes any company, or business or organisation, or other statutory body but does not include the Crown in right of the Government of Niue or any department or office of the Government;
“television installation” means an apparatus designed to receive by means of electric or electromagnetic energy, either with or without artificial guide, sounds and visual images.

(2) Subject to paragraph (1), the expressions defined in the Act have the meanings so defined.

3 Sitting allowances for Directors

(1) Every Director of the Corporation shall be paid an allowance of \$40 per meeting for every meeting that Director attends.
(2) The allowances payable to the Directors shall be a charge upon the funds of the Corporation.

4 Registration of owners of television installations

(1) [Spent]
(2) Any person who becomes an owner or user of a television installation which receives or is being used to receive transmissions from Television Niue shall, as soon as practicable and in no case later than 21 days after the date he receives transmission from Television Niue, inform the Corporation of that fact for the purposes of having his name registered as a person to which these Regulations apply.

5 Register to be kept

For the purposes of regulation 4, the Corporation shall keep a register of all persons receiving transmissions from Television Niue.

6 Effect of registration

(1) Every person registered under the foregoing regulations shall, upon due registration but subject to regulations 7 and 8, acquire the rights to receive transmissions from Television Niue.

(2) A person falling under paragraph (1) is a ‘registered user’.

7 Annual fee for television

(1) Every registered user shall, in respect of acquiring rights to receive television transmissions from Television Niue, be charged an annual fee by the Corporation.

(2) The amount of the annual fee shall be \$260.

8 Payment of annual fee

(1) The annual fee shall be paid to the Corporation on a quarterly basis, falling due on the first day of the months of January, April, July and October in each year.

(2) Every payment shall be made no later than 14 days after the day it is due.

(3) [Spent]

(4) Any registered user who fails to pay the fee on or before the time provided under this Regulation shall, as from the date of such default, be regarded as a person in default to whom regulation 9 apply.

(5) Notwithstanding paragraph (1) any registered user may pay the full annual fee in one instalment.

9 Default in payment

(1) Any registered user who defaults in payment under regulation 8(1) shall for every day of such default be charged a penalty interest of 2% on the amount due.

(2) Any person who defaults in excess of 21 days shall, on the day immediately after that 21 days no longer be regarded as a registered user, and thereupon, becomes a person to whom regulations 11 and 12 apply.

10 Fees for other services

For the purposes of advertisements, notices, or other services to be provided by the Corporation, the rates to be charged by the Corporation are those as set out in the Schedule.

11 Unregistered users

No person, other than a registered user under these Regulations shall have any rights to receive, abstract, or use any television transmission from Television Niue.

12 Offence for unlawful use

(1) For the purposes of section 74 of the Criminal Law Code 2007, it is hereby declared that television transmission is a thing capable of being stolen.

(2) Any person who is not a registered user or who is a person to whom regulation 9(2) applies, who knowingly or fraudulently receives, abstracts, or uses television transmission from Television Niue commits theft and upon conviction is liable to punishment as provided under section 78 of the Criminal Law Code 2007.

POWERS OF CORPORATION

13 Powers of Corporation to conduct inquiries

(1) The Corporation shall have the power to conduct inquiries as may be necessary to ensure compliance with these Regulations.

(2) Without limiting the powers of the Corporation under paragraph (1) the Corporation shall have the power to authorise any of its officers to –

- (a) Enter any place, premises or building;
- (b) Obtain information from any person or occupant of such place, premises or building;
- (c) Conduct any tests to ascertain whether or not any television installation in such place, premises, or building is receiving transmissions from Television Niue.

(3) No officer shall enter any place, premises or building without first giving notice to the owner or occupier of any such place, premises, or building.

(4) In the exercise of the powers under this regulation, the Corporation shall ensure that as little inconvenience as possible is caused to the owners or occupants of any place, premises or building.

14 Powers of Corporation to take legal proceedings

(1) For the purposes of these Regulations, the Corporation may take legal proceedings in its own motion through its officers, or through an appointed agent or attorney, or through the Niue Police.

(2) Any proceedings under regulation 12 may include proceedings for the recovery of any fees due to the Corporation under regulation 7 or 10.

SCHEDULE

A TELEVISION

(a) Advertising – Daily Rates

Sponsorship	\$25 per programme
From commencement of transmission up to 15 minutes before news time	\$5 for up to 30 seconds
From 15 minutes before the news and during breaks in the news	\$10 for up to 30 seconds
After news to close of transmission	\$8 for up to 30 seconds

(b) Advertising – Weekly Rates

From commencement to news time	\$15 for up to 30 seconds
One each day	
After news to close of transmission	\$20 for up to 30 seconds

(c) Other Services

Filming of special functions or occasions eg hair cutting, weddings, etc	\$250
Production of commercials	\$50

B RADIO**(a) Advertising****Morning**

One call	\$3 for up to 30 seconds
Three calls	\$5 for up to 30 seconds
Weekly rate for two calls each day, Monday to Friday	\$12 for up to 30 seconds

Lunch hour

One call	\$2 for 30 seconds
Three calls	\$4 for up to 30 seconds
Weekly rate for two calls each day, Monday to Friday	\$10 for up to 30 seconds

Evening

One call	\$3 for up to 30 seconds
Two calls	\$4 for up to 30 seconds
Weekly rate for two calls each day Monday to Friday	\$6 for up to 30 seconds

(b) Public Notices

One call	\$3 for up to 30 seconds
Three calls	\$5 for up to 30 seconds

(c) Buy, Sell or Swap (private not business)

One call	\$3 for up to 30 seconds
Three calls	\$5 for up to 30 seconds

(d) Entertaining/Fundraising

One call	\$3 for up to 30 seconds
Three calls	\$5 for up to 30 seconds

(e) Birthday Calls

One call	\$3
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BUILDING CODE

[EDITORIAL NOTE: The National Building Code 1990 is not reproduced. Copies of it may be attained from the Director of Works.]

BUSINESS LICENCE

BUSINESS LICENCE REGULATIONS 1997

1997/5 – 18 February 1997

1 Short title

These are the Business Licence Regulations 1997.

2 Interpretation

In these Regulations “Act” means the Business Licence Act 1997.

3 Fees payable

Fees payable by an applicant for the purpose of acquiring a licence under the Act are –

(a) For each wholesaler's licence	\$30.00 per annum
(b) For each retailer's licence	\$30.00 per annum
(c) For each service provider's licence	\$30.00 per annum
(d) True copies of licence	\$10.00 for each copy
(e) Payment for advertising new business	\$20.00 per application.

CHATTELS TRANSFER

CHATTELS TRANSFER FEES REGULATIONS 1967

SR 1967/270 - 1 January 1968

1 Title

These are the Chattels Transfer Fees Regulations 1967.

2 Fees

There shall be paid to the Registrar for the various matters set out in the Schedule the respective fees set out in that Schedule.

SCHEDULE

FEES TO BE PAID TO THE REGISTRAR UNDER THE CHATTELS TRANSFER ACT 1924

	\$
Registration of any instrument	2.00
Renewal of registration of any instrument	2.00
Registration of transfer of instrument, in respect of each instrument transferred.....	2.00
Filing memorandum of satisfaction or of partial satisfaction and entry thereof, in respect of each instrument satisfied or partly satisfied	1.00
Searching register books, indices, and instruments; for every search against any one person.....	0.30
Provided that where any person regularly searches every instrument (other than a transfer) filed in the Registrar's office the fee shall be 15 cents for every instrument searched by that person.	
For a copy of or an extract of or from any document, for each half-sheet of foolscap or part of such a half sheet –	
When typed.....	1.00
When reproduced by photographic or other copying process	0.50
For certifying a copy of or an extract of or from any document	1.00

CIVIL AVIATION

[EDITORIAL NOTE: The legislation listed in the Table of Subsidiary Legislation in Force is not reproduced. It has been superseded by the Civil Aviation Rules of New Zealand under section 52(1) of the Civil Aviation Act 1999. The Rules are accessible at <https://www.aviation.govt.nz/rules/>. The other subsidiary is listed for early repeal.]

COMMUNICATIONS

RADIO REGULATIONS 1972

SR 1972/128 – 1 July 1972

1	Title	33	Observance of conditions and provisions of licence and of regulations
2	Interpretation	34	Licensee personally responsible for observance of regulations and other conditions imposed
3	Application to stations on ships and aircraft	35	Infringement of copyright or patent
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GENERAL MATTERS			
4	Application	36	Licence exercisable in respect of one address
5	Cabinet may establish radiocommunication systems	37	Dismantling or removal of station
6	Delegation of Cabinet's powers	38	Proposed alterations to transmitting apparatus to be notified
7	Cabinet may cause inquiry to be made	39	Harmful interference to other stations
8	Licence or construction permit required for a station	40	Harmful interference suffered by reason of deficiencies in receiving apparatus
9	Construction permit may lapse if certain conditions not met	41	Directive aerials
10	Classes of licences that may be granted	42	Erection of aerials
11	Transmitting station licence to include both the transmitting and receiving apparatus	43	Levels of spurious emissions
12	Superintendent's decision final	44	No monopoly of allotted frequency
13	Terms, conditions and restrictions, in connection with licence or construction permit	45	Operator of transmitting station to hold valid certificate
14	Apparatus to comply with technical specifications	46	Allocation of callsign
15	Period of validity of licence	47	Transmission of callsign
16	Cabinet may refuse to grant application for licence	48	Impersonation
17	Transmitting station licences issued only to New Zealand citizens	49	False, fictitious, or misleading radiocommunication or distress signal or call
18	Licence for a corporate body	50	Seditious, profane, obscene, defamatory, or offensive radiocommunication
19	Licence personal to licensee	51	Penalty for contravention of or non-compliance with regulations 48, 49 or 50
20	Fee payable for licence	52	Log to be kept
21	Commencing date for licensing year	53	Unauthorised use of information
22	Short-term licence	54	Publication of information
23	Backdating of licence	55	Penalty for contravention of or non-compliance with regulations 53 or 54
24	Licence fee for initial period	56	Copy of telegram
25	Cabinet may issue licence without payment of prescribed fee	57	Restricted radiation devices
26	Licence subject to respective limitations and restrictions	58	Control of stations in emergency
27	Non-liability of Niue Public Service	59	Inspection of stations
28	Application of International Radio Regulations	60	Licence, permit, or authorisation to be available
29	Radiocommunication restricted to services indicated in licence	61	Duplicate copy of licence
30	Competition with Government communication services prohibited	62	Requirements where breach committed against the Act or Regulations
31	Station to be used for authorised radiocommunications only	63	Suspension or revocation of licence, permit, certificate, or authorisation
32	Cabinet may grant extension of normal terms of licence	64	Notice of suspension or revocation
		65	Failure to surrender licence, permit, certificate, or authorisation
		66	Service of notice, request, or consent
		67	Penalty where no other penalty provided

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OPERATORS CERTIFICATES, AUTHORISATIONS AND EXAMINATIONS	
68	Classes of certificates
69	Form of certificate or authorisation
70	Terms, conditions and restrictions in connection with certificate or authorisation
71	Cabinet may refuse to grant application for an operators certificate or authorisation
72	Operators certificates issued only to New Zealand citizens
73	Recognition of Commonwealth operators certificate
74	Conditions for the conduct of examinations
75	Minimum age limit
76	Examination for radiotelegraph operators special certificate
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1 Title

These are the Radio Regulations 1972.

2 Interpretation

In these Regulations –

“Act” means the Communications Act 1989;

“aerial” means the electrical conductor or system of conductors used for effecting radiocommunication and includes any pole, insulator, staywire, or other equipment or material used or intended to be used for supporting, enclosing, surrounding, or protecting any such conductor or system of conductors;

“aircraft station” means a mobile station on board an aircraft;

“amateur service” means a radiocommunication service carried on by duly authorised persons interested in radio technique by way of intercommunication and technical investigation solely with a personal aim and without pecuniary interest;

“apparatus” means any apparatus intended for the purpose of effecting radiocommunication, whether by transmission or reception, or both;

“authorised officer” in relation to these Regulations means an officer authorised by Cabinet for the purpose of that provision;

“base station” means a land station in the land mobile service carrying on a service with land mobile stations;

“broadcasting service” means a radiocommunication service in which the transmissions, whether by way of sound, television, or otherwise, are intended for direct reception by the general public;

“coast station” means a land station in the maritime mobile service;

“Commercial fixed station” means a station in the fixed service used for commercial purposes;

“Department” means the Telecommunications Department and includes the Superintendent and any authorised officer;

“fixed service” means a service of radiocommunication between specified fixed points;

“fixed station” means a station in the fixed service;

“harmful interference” means any emission, radiation, or induction which endangers the functioning of a radionavigation service or of other safety services or seriously degrades, obstructs, or repeatedly interrupts a radiocommunication service operating under these Regulations;

“International Radio Regulations” means the radio regulations annexed to the International Telecommunication Convention, Montreux 1965, and includes any regulations made in amendment, addition, or substitution for the said radio regulation;

“land mobile service” means a mobile service between base stations and land mobile stations, or between land mobile stations;

“land mobile station” means a mobile station in the land mobile service capable of surface movement within the geographical limits of the country;

“land station” means a station in the mobile service not intended to be used while in motion or during halts at unspecified points;

“licence” means a licence under these Regulations, for the installation and working of radio stations, or for the erection, construction, establishment, maintenance, or use of radio apparatus capable of transmitting or receiving radiocommunications within Niue or on any Niuean ship;

“licensee” means any person to whom a licence is granted under these Regulations;

“maritime mobile service” means a mobile service between coast stations and ship stations or between ship stations in which survival craft stations may also participate;

“mobile service” means a service of radiocommunication between mobile stations and land stations, or between mobile stations;

“mobile station” means a station in the mobile service intended to be used while in motion or during halts at unspecified points;

“operate” means to be in control of the functioning of radio receiving apparatus, or of radio transmitting apparatus while it is emitting radiations, or in control of the matter radiated by any such apparatus, but does not apply to any person while being the user of the public radiotelephone service; or to any person in respect of announcements made from a broadcasting station;

“operator” means any person duly authorised by these Regulations to operate radio transmitting apparatus or radio receiving apparatus;

“premises” means any building, site, vehicle, vessel or structure, or any group of buildings within the same site or boundary and forming part of the same establishment, or any part of any building or site under separate occupation or tenancy;

“public correspondence” means any communication which any station must, by reason of its being operated as a public service for the convenience of the general public, accept for transmission;

“radiocommunication” means any transmission, emission, or reception of signs, signals, impulses, writing, images, sounds, or intelligence of any nature, including pulsed radio-frequency emissions, by the free radiation in space of electromagnetic waves of frequencies between 10 kilohertz and 3,000 gigahertz;

“radio station” and “station” mean one or more transmitters or receivers or a combination of transmitters and receivers, including the accessory equipment, necessary at one location for carrying on a radiocommunication service classified by the service in which it operates permanently or temporarily;

“radiotelegraphy” means a system of radiocommunication for the transmission of any kind of information by the use of a signal code;

“radiotelephony” means a system of radiocommunication for the transmission of speech or other sounds;

“restricted radiation device” means a device which radiates electromagnetic energy either incidentally to or as an essential element of its operation;

“ship station” means a mobile station in the maritime mobile service located on board a vessel other than a survival craft, which is not permanently moored;

“Superintendent” means the Director of the Telecommunications Department of Government and includes any officer of the Niue Public Service acting for the time being in the place of the Superintendent, whether during any vacancy in that office or otherwise;

“survival craft” means a lifeboat, liferaft, or other survival equipment intended solely for survival purposes;

“telegram” means any written matter intended to be transmitted by radiotelegraphy or radiotelephony for delivery to an addressee.

3 Application to stations on ships and aircraft

Unless otherwise expressly provided herein, these Regulations shall be applicable to all radio stations established on any Niuean ship, and also to all radio stations established on ships or other vessels that are not Niuean ships during the time the ships or other vessels are within the territorial waters or harbours of Niue, and shall similarly be applicable to all aircraft stations on or over Niuean territory notwithstanding that the aircraft may not be registered in Niue.

PART 1
GENERAL MATTERS

4 Application

The Regulations contained in this Part shall apply to every class of radio station except such stations as may be specifically exempted herein.

5 Cabinet may establish radiocommunication systems

(1) Nothing in these Regulations shall prejudice or affect the right of Cabinet to establish, extend, maintain and work any system or systems of radiocommunication (whether of a like nature to those licensed hereunder or otherwise) in such manner as it shall think fit.

(2) Nothing in these Regulations shall prejudice or affect the right of Cabinet to enter into agreements for or to grant licences relative to the working and use of radio stations (whether of a like nature to those licensed hereunder or otherwise) for the transmission or reception of messages in any part of Niue by means of radiocommunication, or by any other means, with or to any person or persons whomsoever, upon such terms as Cabinet thinks fit.

(3) Except as expressly provided in these Regulations, nothing herein contained shall be deemed to authorise any licensee to exercise any of the powers or authorities conferred on or acquired by Cabinet by or under the Act.

6 Delegation of Cabinet's powers

Any of the powers or authorities given to Cabinet by these Regulations may be delegated by Cabinet to such officer or officers of the Niue Public Service as Cabinet thinks fit.

7 Cabinet may cause inquiry to be made

Cabinet may cause inquiry to be made into any matter connected with these Regulations or arising thereunder, in such manner as he thinks fit, and licensees and operators shall comply strictly with every requirement of Cabinet made pursuant to any such inquiry.

8 Licence or construction permit required for a station

(1) (a) Except as provided in these Regulations, every person who, not being the holder of a licence authorising him to do so, erects, constructs, establishes, maintains, or uses any apparatus capable of transmitting radiocommunications, or is in possession of any apparatus capable of receiving radiocommunications, commits an offence and shall be liable accordingly.

(b) Before the issue of a licence, the Superintendent may issue a permit for the construction and testing of a station for which application for a licence has been made, and which is capable during that construction or testing, or at any time whatsoever, of generating electric waves likely to interfere with radiocommunication, and that subject to regulation 9, for the purposes of this regulation, any such construction permit shall be deemed to be a licence until revoked, or if not revoked, until such time as a licence shall have been issued.

(2) Notwithstanding paragraph (1) that paragraph shall not apply in respect of apparatus for the reception of radiocommunications in the broadcasting service.

9 Construction permit may lapse if certain conditions not met

Any construction permit issued by the Superintendent under regulation 8 shall, unless extended by the Superintendent, be deemed to have lapsed if construction of the station has not been completed within 6 months from the date of the granting of the permit.

10 Classes of licences that may be granted

The following classes of licences may be granted, and shall be in such form as Cabinet approves in that behalf –

- (a) For transmitting stations –
 - (i) ship station licence;
 - (ii) land mobile station licence;
 - (iii) land station licence;
 - (iv) fixed station licence;
 - (v) amateur station licence;
- (b) For receiving stations –
 - (i) ship station receiving licence;
 - (ii) land mobile station receiving licence;
 - (iii) land station receiving licence;
 - (iv) fixed station receiving licence.

11 Transmitting station licence to include both the transmitting and receiving apparatus

A transmitting station licence shall cover both transmitting apparatus and receiving apparatus at the station.

12 Superintendent's decision final

The Superintendent shall decide the class of licence and the number of licences to which any person is entitled in respect of any existing or proposed radio station, and his decision shall be final.

13 Terms, conditions, and restrictions, in connection with licence or construction permit

Cabinet may, in connection with any licence or construction permit, impose such terms, conditions, and restrictions, not inconsistent with the Act or these Regulations as it thinks fit.

14 Apparatus to comply with technical specifications

Cabinet may require that any apparatus used in any radiocommunication service shall comply either in whole or in part with any technical specifications issued in that behalf by the Superintendent.

15 Period of validity of licence

Except where otherwise provided in these Regulations, every licence issued under these Regulations shall be in force from the time of the granting until the date of expiration shown thereon (if any), or until suspended or revoked.

16 Cabinet may refuse to grant application for licence

Cabinet may refuse to grant an application for any class of radio licence.

17 Transmitting station licences issued only to New Zealand citizens

No transmitting licence shall be issued to anyone other than a New Zealand citizen except at the discretion of Cabinet and subject to such terms, conditions and restrictions as Cabinet thinks fit.

18 Licence for a corporate body

(1) Where the applicant for a licence is a corporate body, any individual through whom the application is made shall satisfy the Superintendent that he is duly authorised to make the application in the name and on behalf of the corporate body.

(2) Where a licence is sought for a station vested in any person in trust for an association, institute, or other body of unincorporated persons, the applicant shall satisfy the Superintendent that he is or is to be the person to erect, construct, establish, maintain, and use the apparatus or that he is the person in possession of the station or apparatus in respect of which the licence is sought.

19 Licence personal to licensee

(1) Every licence, permit, certificate, or authorisation issued or enuring under these Regulations shall be personal to the licensee or holder, and no licensee or the holder of any permit, certificate, or authorisation, shall assign, sublet, transfer, or otherwise dispose of, or for the purpose of profit admit any other person or body to participate in the benefit of any such licence, permit, certificate, or authorisation.

(2) The Superintendent or any person authorised by him in that behalf shall have the power, in any case at his sole and entire discretion to waive this requirement by giving prior consent in writing to any such disposal or admission and such consent shall enure only for the purpose of that disposal and admission and no subsequent disposal or admission.

20 Fee payable for licence

(1) Except as otherwise provided in these Regulations, the fee payable in respect of any licence under these regulations shall be the appropriate fee prescribed in Schedule 1.

(2) In the case of a station performing the service of both a land station and a fixed station, the fee for the licence for the station shall be the fee prescribed in clause 4 of Schedule 1.

(3) The fee for a receiving station licence under regulation 10(b) shall be half the fee prescribed for a transmitting station licence of the same class.

21 Commencing date for licensing year

Except as provided in these Regulations, the fee payable for any licence described in regulation 10 shall be the fee for the full licensing year, which shall be deemed to commence as follows –

- (a) For a ship station licence: on the first day of January;
- (b) For a land station licence, a land mobile station licence, or a fixed station licence: on the first day of April;
- (c) For an amateur station licence: on the first day of the month of issue.

22 Short-term licence

The Superintendent may issue a licence for a station or stations in the fixed service or the land mobile service for a period not exceeding 28 days.

23 Backdating of licence

(1) Where a person applies for a licence in respect of any apparatus capable of transmitting or receiving radiocommunications, and before the grant of the licence he, without being the holder of a licence for the time being in force authorising the act, did any act in respect of the apparatus which, in accordance with these regulations, may

only be done by the holder of a current licence, the licence applied for may be dated as of the date on which he first did the act.

(2) In any proceedings for an offence against these Regulations a licence shall not be deemed to have been in force before the date on which it was granted.

24 Licence fee for initial period

In the case of a transmitting station licence (other than an amateur station licence) where the period to the end of the licensing year does not exceed 3 months and the licence is also taken out for the ensuing year or part of the year, the fee for the initial period shall be one-fourth of the annual fee and shall be added to the full annual fee for the ensuing licensing year.

25 Cabinet may issue licence without payment of prescribed fee

Notwithstanding anything in these Regulations, where in the opinion of Cabinet any such action is warranted, Cabinet may issue a licence without payment of the prescribed fee or upon payment of a reduced fee.

26 Licence subject to respective limitations and restrictions

Every radio licence shall be deemed to be subject to the respective limitations and restrictions contained in these regulations in respect of a licence of the class concerned as if those limitations and restrictions were set out expressly in the licence.

27 Non-liability of Cabinet or Niue Public Service

Neither Cabinet nor the Niue Public Service shall be liable in respect of any action, claim, or demand that may be brought or made by any person in respect of any bodily injury or damage to property or any other circumstances arising from any act permitted by a licence issued under these regulations.

28 Application of International Radio Regulations

The International Radio Regulations shall, except as may otherwise be provided in these Regulations, apply to every licence issued by Cabinet, and every licensee shall observe any such provisions as far as they apply to the particular class of licence held by the licensee.

29 Radiocommunication restricted to services indicated in licence

Subject to these Regulations, a licence issued under these Regulations shall not authorise the licensee to take part in any radiocommunication service other than the services indicated in the licence.

30 Competition with Government communication services prohibited

(1) Except with the authority of Cabinet a radio station shall not be used in any way to compete with Government communication services, and shall not transmit or receive radiocommunications the transmission or reception of which is calculated, in the judgment of Cabinet, to cause loss of revenue to the Department.

(2) In an emergency, communications having for their object the preservation of human life, the protection of property, or the detection of crime, may be transmitted or received without reference to Cabinet.

31 Station to be used for authorised radiocommunications only

Neither the licensee nor any other person shall use, nor shall the licensee cause or permit any person to use, any radio station for the transmission or reception of radiocommunications except such radiocommunications as are authorised by these Regulations.

32 Cabinet may grant extension of normal terms of licence

Where difficulties inherent to the nature of radiocommunication may be overcome by a reasonable extension of the normal terms of any licence issued under these Regulations Cabinet may grant to the licensee, in writing, such extension of the terms as in the opinion of Cabinet may be necessary in the circumstances.

33 Observance of conditions and provisions of licence and of regulations

Every licensee of a radio station shall faithfully observe and cause to be observed all the conditions and provisions of the licence and of these Regulations as far as they are applicable.

34 Licensee personally responsible for observance of regulations and other conditions imposed

Notwithstanding any approval that may be given to the licensee by Cabinet for any person other than the licensee to operate any radio station, the licensee shall be personally responsible for the observance of these Regulations and all other conditions imposed as if the station were operated by the licensee.

35 Infringement of copyright or patent

The issue of a licence under these Regulations shall not relieve the licensee of responsibility for infringement of copyright or of any patent for an invention, or for compliance with any other Regulations, instructions, or rules which may be applicable.

36 Licence exercisable in respect of one address

Subject to the provisions of these Regulations, a radio station licence, except a licence for a mobile station, shall authorise any act covered by the licence only at the particular address stated in the licence and shall not extend to anywhere else.

37 Dismantling or removal of station

In the event of a radio station licensed under these Regulations being dismantled, or (except in the case of a mobile station) removed from the particular address stated in the licence, the licensee shall, within 7 days thereafter, notify the Superintendent in writing accordingly.

38 Proposed alterations to transmitting apparatus to be notified

Any proposed alteration affecting the technical characteristics or the location or the functioning of the transmitting apparatus at any radio station shall be notified in writing to the Superintendent.

39 Harmful interference to other stations

The licensee of any radio station shall operate the station in such manner as not to cause harmful interference and shall comply with all such directions and conditions as may be given or made by the Superintendent for that purpose.

40 Harmful interference suffered by reason of deficiencies in receiving apparatus

It shall not be a breach of regulation 39 if any harmful interference is, in the opinion of the Superintendent, suffered by any receiving apparatus by reason of its being of inferior design or construction or being incapable of such minimum technical performance as he may prescribe.

41 Directive aerials

Wherever the nature of the service permits, and if directed by the Superintendent, directive aerials shall be employed.

42 Erection of aerials

Aerials shall not, without the consent of Cabinet, be erected above or below any lines erected and maintained by the Department, or sufficiently near any such lines to permit contact with them should any such lines or the aerial fail.

43 Levels of spurious emissions

(1) The licensee shall ensure that the levels of spurious emission of a station are kept at the lowest value which the general state of development of radio apparatus permits and in any case the levels of spurious emissions shall be maintained within the limits prescribed by the International Radio Regulations.

(2) The Superintendent may set any limit lower than that prescribed by the International Radio Regulations for the maximum permissible value of any spurious emission in which case the licensee shall ensure that the levels of spurious emissions do not exceed this lower limit so set.

44 No monopoly of allotted frequency

(1) The allocation of any frequency to any transmitting station shall not be held to confer upon the licensee or upon the station so licensed, a monopoly of the use of that frequency.

(2) The Superintendent may, and subject to such terms, conditions, and restrictions as he thinks fit, allocate to any licensee a frequency for the exclusive use of the licensee's station or stations so licensed.

45 Operator of transmitting station to hold valid certificate

Except as otherwise provided in these Regulations, or in the case of an emergency involving the safety of life or property, no person shall operate the apparatus at a transmitting station licensed under these Regulations unless he is the holder of a valid certificate of the required class, or an authorisation issued, or in the case of a certificate recognised by Cabinet.

46 Allocation of callsign

The Superintendent shall allot to every transmitting station licensed under these Regulations a callsign by which the station shall be identified.

47 Transmission of callsign

Except as otherwise directed by the Superintendent, each transmitting station shall transmit its callsign as frequently as practicable, and in any event at least once in each hour during the course of transmission.

48 Impersonation

No person shall, by means of a radio station, impersonate any other person, or pass off that radio station to be any other radio station, or use the callsign of another radio station improperly, or without lawful justification.

49 False, fictitious, or misleading radiocommunication or distress signal or call

No person shall transmit or cause or permit to be transmitted any radiocommunication of a false, fictitious, or misleading character, and in particular but without prejudice to the

foregoing, transmit or cause or permit to be transmitted any false or deceptive distress signal or distress call.

50 Seditious, profane, obscene, defamatory, or offensive radiocommunication

No person shall transmit or cause or permit transmission of any radiocommunication of a seditious, profane, obscene, or defamatory nature, or of an offensive nature or meaning.

51 Penalty for contravention of or non-compliance with regulations 48, 49 or 50

Any person who acts in contravention of or fails to comply with any requirement of regulations 48, 59 or 50 commits an offence against these Regulations, and shall be liable on conviction to a fine not exceeding 1 penalty unit.

52 Log to be kept

(1) The licensee of every transmitting station shall, unless exempted by the Superintendent, keep a log record showing the hours during which the station is in operation, the time of each transmission, the class of emission, the station called, and the power and the frequency used.

(2) In addition, stations of the maritime mobile service and aircraft stations shall record such other particulars as may be required from time to time by the Superintendent.

(3) The log shall be retained for a period of 1 year, and shall be produced for perusal by an authorised officer whenever required.

53 Unauthorised use of information

Every person who, by virtue of any radio station, has access to any radiocommunication not intended for his information, shall preserve the secrecy of that radiocommunication and any information whatsoever derived from it, and shall not except as authorised in these Regulations make use of that radiocommunication or any information whatsoever derived from it and shall not reproduce or cause or permit to be reproduced, in a newspaper or elsewhere, or communicate to any third party, any such radiocommunication or any information derived therefrom, nor shall the fact of the existence of the radiocommunication be disclosed.

54 Publication of information

(1) Except with the authority of Cabinet no licensee or other person shall communicate to a newspaper for publication any radiocommunication by whatever means received.

(2) This regulation shall not apply to the private correspondence of the licensee.

55 Penalty for contravention of or non-compliance with regulations 53 or 54

Any person who acts in contravention of or fails to comply with any provision of regulations 53 or 54 commits an offence and shall be liable on conviction to a fine not exceeding 1 penalty unit.

56 Copy of telegram

Nothing in these Regulations shall be deemed to prohibit a person duly authorised in that behalf from giving a copy of any telegram or information relating to any telegram to the person or persons entitled thereto, or to a properly authorised official of Government, or to a competent legal tribunal.

57 Restricted radiation devices

Notwithstanding anything in these Regulations, restricted radiation devices operated subject to the following conditions need not be licensed under these Regulations –

- (a) Operation shall be confined to the frequency range of 10 kHz to 150 kHz, or, in the case of devices used solely for the transmission of the output of musical instruments or of record reproducing devices, to the frequency ranges of 10 kHz to 150 kHz and 525 kHz to 1605 kHz;
- (b) The distance over which the operation extends shall not exceed 50 ft; and at this distance the electromagnetic field shall not exceed 15 microvolts per metre in any direction;
- (c) No microphone for voice reproduction shall be connected to any such device;
- (d) The devices shall be operated with the minimum power necessary to accomplish the desired purpose;
- (e) The best engineering principles shall be utilised in the generation of radio frequency energy so as not to cause harmful interference to other radiocommunication services, and in the event that such interference is caused, the operator of the device shall promptly take steps to eliminate the interference;
- (f) Any harmful interference that may be experienced from the operation of other restricted radiation devices, or from the operation of any other radiocommunication service, must be tolerated.

58 Control of stations in emergency

(1) If and whenever an emergency has arisen in which it is expedient in the public interest that Government shall have control over the radiocommunications of any licensed radio stations, it shall be lawful for any officer of Her Majesty's armed forces, or for any other person authorised in that behalf by Cabinet to take possession of, or to cause the station or any part thereof to be taken possession of, in the name and on behalf of Her Majesty, and to be used for Her Majesty's service, and subject thereto, for such other services as the said officer or person may deem fit.

(2) In that event, the officer or any person authorised in that behalf by Cabinet may enter upon any premises at, or on which the station or any part thereof is installed, and take possession of the station or any apparatus comprising the station and use the same as aforesaid.

(3) Any such officer or authorised person may in such event as aforesaid, instead of taking possession of the station, direct and authorise such persons as he may think fit to assume the control of the radiocommunications of the station, either wholly or partly, to such extent and in such manner as he may direct, and any such persons may enter upon any station accordingly, or the said officer or person authorised by Cabinet in that behalf may –

- (a) Direct the licensee or his servants or agents to submit to him, or any person authorised by him, all messages tendered for transmission or received by the licensed station, or any class or classes of any such messages; or
- (b) Direct the licensee or his servants or agents to stop or delay the transmission of any messages, or deliver the same to the said officer or person or his agent, and generally to obey all such directions relating to the reception and transmission of messages as the said officer or person may prescribe; or
- (c) Dismantle or order the dismantling of the said station –

and the licensee and his servants or agents shall obey and conform to all such directions or orders.

59 Inspection of stations

Cabinet or any agent duly authorised by it, may at any time inspect any station other than a station for the reception of radiocommunications in the broadcasting service, and may inspect the working and use of any such station, and for that purpose, or for the purpose of determining whether the qualifications of any operators employed conform to the requirements of these regulations, may enter upon any property or premises on which any such station is established, and the licensee shall afford Cabinet or its agent all reasonable facilities therefor.

60 Licence, permit or authorisation to be available

Except as otherwise provided in these Regulations, the licensee of any radio station shall cause the licence, permit, or authorisation, as the case may be, covering the station, to be available at the station at all times for inspection by an authorised officer.

61 Duplicate copy of licence

(1) A duplicate copy of a licence shall be issued only on production of satisfactory evidence that the original has been lost, mutilated, or destroyed.

(2) The fee for any duplicate copy of a licence shall be that prescribed in Schedule 1.

62 Requirements where breach committed against the Act or Regulations

If, in the opinion of the Superintendent or other officer duly authorised by Cabinet a breach of the Act or of these Regulations has been committed in respect of the installation or operation of any radio apparatus, the Superintendent or authorised officer may require the licensee or operator or other person responsible for the alleged breach to cease to operate or to dismantle the apparatus pending the determination of Cabinet in respect of the alleged breach, and may take into custody the whole or part of any such apparatus or in other manner render the said apparatus inoperative, and any such direction or action shall subsist until countermanded by Cabinet.

63 Suspension or revocation of licence, permit, certificate, or authorisation

(1) Any licence, permit, certificate, or authorisation issued or enuring under these Regulations may at any time be suspended or revoked by Cabinet in the event of misconduct or of a breach on the part of the holder of the International Radio Regulations, or of these Regulations, or of any conditions, directions, or rules prescribed by Cabinet for the guidance of operators or for the working of the licensed station, or of any conditions, directions, or rules subject to which the licence, permit, certificate, or authorisation was issued, or where it appears to Cabinet to be in the public interest, or upon the grounds that an emergency has arisen in which it is expedient that Government shall have control over radiocommunication.

(2) The licensee shall not be entitled to compensation for any suspension or revocation of a licence, permit, certificate, or authorisation under this regulation.

(3) Any such suspension or revocation shall be effected by notice serviced on the licensee, or holder of the permit, certificate, or authorisation, personally, or sent by registered post addressed to him at his usual or last known place of abode or business in Niue, or at any address stated in the licence, permit, certificate, or authorisation or in any application for a licence, permit, certificate, or authorisation, or publicly notified as provided by regulation 64 and shall be deemed to have been given, if sent by post, at the time when it would be received at its address in the ordinary course of registered post, and, if publicly notified, on the day following the first publication of the notice.

(4) Any licence, permit, certificate, or authorisation revoked under this regulation shall be forthwith surrendered to Cabinet.

64 Notice of suspension or revocation

Cabinet may publicly notify the suspension or revocation of any licence, permit, certificate, or authorisation and may give notice to any person of the suspension or revocation.

65 Failure to surrender licence, permit, certificate, or authorisation

Any person who, without reasonable cause, fails to surrender any licence, permit, certificate, or authorisation so revoked as aforesaid, after having been required in writing or otherwise by Cabinet or by any person acting on its behalf, so to do, commits an offence against these Regulations.

66 Service of notice, request, or consent

(1) Any notice, request, or consent (whether required to be in writing or not) given by Cabinet under these Regulations may be under the hand of the Superintendent or other authorised officer of the Department, and may be served by sending the same in a registered letter addressed to the person concerned at his office or place of residence for the time being, or, if any such notice, request, or consent relates to any particular ship station, by delivering the same to the master or other person responsible for the ship upon which the station is installed.

(2) Any notice to be given by any licensee or any other person under these Regulations may be served by sending the same in a registered letter addressed to the Superintendent, Radio Station, Niue.

67 Penalty where no other penalty provided

Any person who acts in contravention of, or commits an offence against, any of these regulations for which a penalty is not otherwise provided, or who commits any breach of the conditions of a licence, permit, certificate, or authorisation of which he is the holder, and for which a penalty is not otherwise provided, shall be liable on conviction to a fine not exceeding 0.5 penalty units.

PART 2

OPERATORS CERTIFICATES, AUTHORISATIONS AND EXAMINATIONS

68 Classes of certificates

(1) The classes of operators certificates of competency which may be granted are the following –

- (a) Radiotelegraph operators special certificate;
- (b) General radiotelephone operators certificate;
- (c) Restricted radiotelephone operators certificate;
- (d) Land radiotelephone operators certificate;
- (e) Amateur operators certificate.

(2) The fee payable in respect of the entry for the examination for any such certificate shall be the appropriate fee prescribed in the Schedule 2.

69 Form of certificate or authorisation

Any certificate or authorisation shall be in such form and subject to such conditions, directions, or rules as Cabinet may approve in that behalf.

70 Terms, conditions and restrictions in connection with certificate or authorisation

Cabinet may, in connection with any certificate of authorisation impose such terms, conditions, and restrictions, not inconsistent with the act or these Regulations, as it thinks fit.

71 Cabinet may refuse to grant an application for an operators certificate or authorisation

Cabinet may refuse to grant an application for any class of operators certificate or authorisation.

72 Operators certificates issued only to New Zealand citizens

No operators certificate shall be issued to anyone other than a New Zealand citizen except at the discretion of Cabinet and subject to such terms, conditions, and restrictions as Cabinet thinks fit.

73 Recognition of Commonwealth operators certificate

The Superintendent may at his discretion recognise as the equivalent of an operators certificate issued under these Regulations an operators certificate of similar class issued by a country of the Commonwealth or by the Republic of Ireland.

74 Conditions for the conduct of examinations

The Superintendent may prescribe the conditions for the conduct of any examination under these Regulations.

75 Minimum age limit

- (1) No operators certificate shall be issued under these Regulations to a person less than 18 years of age.
- (2) (a) An amateur operators certificate may be issued to a person of not less than 16 years of age; and
- (b) At the discretion of the Superintendent a restricted radiotelephone operators certificate or a land radiotelephone operators certificate may be issued to a person not less than 16 years of age.

76 Examination for radiotelegraph operators special certificate

To qualify for a radiotelegraph operators special certificate a candidate shall pass the appropriate examination prescribed in the International Radio Regulations together with a test in the exchanging of traffic, and a practical test to determine the candidate's ability to send correctly and to receive correctly by telephone.

77 Endorsement of certificate for radiotelegraph service only

Where a candidate for the examination for a radiotelegraph operators special certificate is unable to pass a test in sending and receiving messages by telephone but passes in all other subjects, an appropriate certificate endorsed to apply exclusively to the radiotelegraph service may be issued.

78 Examination for radiotelephone operators certificate

To qualify for a general or restricted radiotelephone operators certificate a candidate shall pass the appropriate examination prescribed in the International Radio Regulations.

79 Examination for land radiotelephone operators certificate

To qualify for a land radiotelephone operators certificate a candidate shall pass an examination comprising a knowledge of the rules and regulations applicable to the particular class of station or service in respect of which that certificate is required.

80 Examination for amateur operators certificates

- (1) There shall be 3 grades of amateur operators certificate.
- (2) To qualify for a certificate of Grade 1 a candidate shall pass an examination comprising –
 - (a) A written examination in the elementary principles of electricity, radiotelegraphy, and radiotelephony, and in the adjustment and operation of radio apparatus used in a typical amateur station; and
 - (b) A knowledge of such of these regulations as are applicable to the amateur service; and
 - (c) A morse operating test, both sending and receiving, at a speed of 15 words a minute.
- (3) To qualify for a certificate of Grade II a candidate shall pass an examination comprising –
 - (a) The examination prescribed in subclause (2)(a) and (b);
 - (b) A morse operating test, both sending and receiving, at a speed of 12 words a minute.
- (4) To qualify for a certificate of Grade III a candidate shall pass an examination comprising the examination prescribed in subclause (2)(a) and (b).

81 Re-examination

- (1) In circumstances in which any such action is deemed to be necessary or desirable in the public interest, the Superintendent may require any person to whom any class of operators certificate or authorisation under these Regulations has been issued to submit himself for re-examination in any or all of the subjects required for examination for the class of certificates or authorisation concerned.
- (2) Where any person fails to submit himself for re-examination in accordance with this regulation when so required by the Superintendent, or fails to qualify at the re-examination, the certificate or authorisation issued to that person may be suspended or revoked for such period as Cabinet shall determine.

82 Recount of marks awarded

- (1) In circumstances in which any such action appears desirable the Superintendent may approve a recount being made of the marks awarded to a candidate in respect of any written examination prescribed by these regulations.
- (2) The fee in respect of each paper for which a recount of marks is undertaken shall be that prescribed in Schedule 2.

83 Declaration of secrecy

Before any operators certificate or authorisation under these Regulations is issued a written declaration that he will preserve the secrecy of any radiocommunication not intended for his information shall be made by the applicant.

84 Duplicate operators certificate or authorisation

- (1) A duplicate copy of an operators certificate or authorisation shall be issued only on production of satisfactory evidence that the original has been lost, mutilated, or destroyed.
- (2) The fee for any such duplicate copy shall be that prescribed in Schedule 2.

PART 3
MOBILE STATIONS

85 Types of licences

The following licences may be issued for the categories of mobile stations mentioned

- - (a) Ship station licences for ship stations;
 - (b) Land mobile station licences for land mobile stations.

86 Limitation applying to ship stations

Except as provided in regulation 88, ship stations are authorised to communicate only with other stations of the maritime mobile service or with aircraft stations.

87 Distress calls and distress messages

Mobile stations of the maritime mobile service and aircraft stations shall accept, with absolute priority, distress calls and distress messages regardless of their origin and the operator shall immediately convey any such calls and messages to the master or other person responsible for the ship or aircraft and take such other action in regard thereto as may be required.

88 Station in distress may use any means at its disposal to attract attention

No provision in these Regulations shall be so construed as to hinder a ship or aircraft station in distress using any means at its disposal to attract attention, indicate its position, and obtain assistance.

89 Ship stations licensed to engage in public correspondence

(1) There shall be 4 categories of ship stations licensed to engage in public correspondence and the category of any such ship station shall be as determined by Cabinet.

(2) The licensee of a ship station shall provide a service at least during the hours of service for the category of ship station in which that ship is placed prescribed as follows –

First category: ship stations of the first category shall maintain a continuous service;

Second category: ship stations of the second category shall maintain a service for 16 hours a day;

Third category: ship stations of a third category shall maintain a service for 8 hours a day;

Fourth category: ship stations of the fourth category shall maintain a service the duration of which may, if not otherwise prescribed by the International Radio Regulations, be less than that of stations in the third category.

(3) The class of operator for each category of ship station shall be as prescribed by the International Radio Regulations for ship stations of the appropriate category participating in the international public correspondence service.

90 Ship stations employing radiotelephony not licensed to engage in public correspondence

The minimum qualification to be held by each operator of a ship station employing radiotelephony and not licensed to engage in public correspondence shall be a general radiotelephone operators certificate or a restricted radiotelephone operators certificate as determined by Cabinet.

91 Ship stations employing radiotelegraphy not licensed to engage in public correspondence

Ship stations employing radiotelegraphy and not licensed to engage in public correspondence shall be manned by an operator holding a radiotelegraph operators special certificate or a radiotelegraph operators certificate of higher grade.

92 Accounts, payments and retention of records

(1) The licensee of a ship station open for public correspondence shall keep full accounts, records and registers of all radiotelegrams transmitted by him. Each radiotelegram shall be identified by a number and date, full particulars of its place of origin and of ultimate destination, and such further particulars as the Superintendent may require to be shown.

(2) The licensee shall preserve all used radiotelegram forms whether written or printed, and transcripts of radiotelegrams and all other papers relating thereto, for such period as is prescribed by the International Radio Regulations, and these shall accompany any account or inquiry submitted by the licensee to the Superintendent.

(3) The originals of radiotelegrams, and documents relating to radiotelegrams retained by the licensee, shall be held, with all necessary precautions to maintain privacy as to their contents, for 6 months from the month in which the accounts were submitted.

(4) The licensee shall pay to the Superintendent, at such times and in such manner as the Superintendent shall direct, all sums due from the licensee for radiotelegrams exchanged between the licensed station and coast stations in accordance with the charges due under the International Radio Regulations as the Superintendent may direct.

(5) When requested by a coast station for particulars of how or by whom accounts are to be settled the licensee of the ship station shall, as a matter of regular procedure, furnish to the coast station the necessary particulars.

93 Documents to be carried by ship stations

Ship stations shall carry such documents relating to the operation of the station as the Superintendent may require.

94 Ship stations operating in bands between 405 kHz and 535 kHz

Every ship station licensed to use a radiotelegraph installation in the authorised bands between 405 kHz and 535 kHz shall be able to transmit class A2 or class A2H emissions and receive class A2 and class A2H emissions on the international calling and distress carrier frequency of 500 kHz.

95 Ship stations operating in bands between 1605 kHz and 2850 kHz

Every ship station licensed to use a radiotelephone installation in the authorised bands between 1605 kHz and 2850 kHz shall be able to transmit class A3 or class A3H emissions and receive class A3 and class A3H emissions on the international calling and distress carrier frequency of 2182 kHz.

96 Ship stations operating in bands between 156 MHz and 174 MHz

Every ship station licensed to use a radiotelephone installation in the authorised bands between 156 MHz and 174 MHz shall be able to transmit and receive class F3 emissions on the international calling and safety frequency of 156.80 MHz and on the primary intership frequency of 156.30 MHz.

97 Ship stations to keep listening watch on 500 kHz

(1) All ship stations licensed to use radiotelegraph installations in the authorised bands between 405 kHz and 535 kHz shall, during their hours of service, observe a listening watch on the international distress carrier frequency of 500 kHz twice each hour for 3 minutes commencing at 15 minutes and 45 minutes past the hour, Greenwich Mean Time.

(2) During these periods all transmissions in the bands between 485 kHz and 515 kHz except for distress, urgent, or safety transmissions, shall cease.

98 Ship stations to keep listening watch on 2182 kHz

(1) All ship stations licensed to use radiotelephone installations in the authorised bands between 1605 kHz and 2850 kHz shall, during their hours of service, observe a listening watch on the international distress carrier frequency of 2182 kHz twice each hour, for 3 minutes commencing on the hour and half hour, Greenwich Mean Time.

(2) During these periods all transmissions between the frequencies of 2173.5 kHz and 2190.5 kHz, except for distress, urgency or safety transmissions, shall cease.

99 Inspection of ship stations

(1) If on inspection under regulation 59, any ship station is found to be not so equipped or provided for as prescribed in these Regulations, or in the International Radio Regulations where those Regulations are applicable, a notice in writing pointing out the deficiency shall be given to the master or licensee of the station, and a copy of that notice shall be given to an authorised representative of the Marine Department at the port where the inspection is carried out.

(2) Upon receipt of any such notice the master or other person responsible for the station shall take immediate steps to rectify the deficiency.

100 Prevention of transmissions from ships in harbour in special circumstances

(1) If and whenever the Government shall deem any such action necessary in the interests of the State, Cabinet may, by public notice, prohibit the use of radio by ship stations in harbour and notify that the provisions of this regulation shall be in force until further notification, and thereafter and until a countermanding notice has been similarly published, the following provisions shall apply in respect of ships entering or in any harbour –

- (a) The radio transmitting apparatus shall be rendered inoperative by the Customs Officer boarding the vessel, and the room or rooms housing the apparatus shall be locked by the Customs Officer and the keys handed to the master who shall be responsible for their custody. The master shall ensure that all portable transmitters are rendered inoperative by being made subject to the same procedure;
- (b) During the stay of the vessel in harbour, access to the radio transmitting apparatus will be allowed only if it is necessary for the radio staff to have such access in order to carry out maintenance work, or other essential duties;
- (c) The master shall ensure that no transmissions are made while the radio transmitting apparatus is so accessible and that the cabin is relocked as soon as all maintenance work or other essential duties have been done;
- (d) (i) In the case of any foreign ship all radio transmitting apparatus shall be sealed by the Customs Officer boarding the vessel before locking the room or rooms housing the apparatus under paragraph (a) and the master shall

be responsible for ensuring that the seals are not broken during the vessel's stay in harbour;

(ii) Access to radio transmitting apparatus shall be allowed only for essential maintenance purposes upon the master notifying the Customs Officer when access is required and the said officer arranging for the breaking of the seals. The master shall ensure that no transmissions are made while the apparatus is so accessible.

(2) An entry shall be made in the ship's station log of any action taken under paragraph (1).

(3) No radar installation shall be used by any ship while in harbour except when the ship is under way and no radio transmissions shall be made at any time while the ship is in harbour.

(4) If at any time while the provisions of this regulation are in force there is in respect of any ship in harbour a failure to comply with any of the provisions of this regulation the owner and master shall be guilty of an offence, and the owner and master and any other person committing a breach of paragraph (3) shall be guilty of an offence, and shall be severally liable on conviction to a fine not exceeding 20 penalty units.

101 Notice of detention of a ship

(1) Whenever Cabinet has reasonable cause to believe or suspect that any breach of regulation 100 (3) has been committed on board any merchant ship while in harbour, it may give notice in writing to the Financial Secretary to detain the ship until the sum of \$2,000 or such smaller sum as may be specified in the notice, has been deposited with the Financial Secretary by or on behalf of the person liable.

(2) If on receipt of that notice, or at any time within 3 months thereafter, the ship is found within port, the Financial Secretary shall withhold the certificate of clearance of the ship under section 72 of the Customs Act 1966, until and unless the aforesaid sum is deposited with him or the aforesaid notice of detention is withdrawn.

(3) If within 6 months after the date of the offence in respect of which the ship has been detained a conviction for that offence is obtained against any person, the sum so deposited shall be available for the satisfaction of any fine and costs imposed and awarded by the conviction, and the residue, if any, shall be returned to the person by whom or on whose behalf the deposit is made.

(4) If within the period of 6 months aforesaid no such conviction is obtained, the sum so deposited shall be returned to the person by whom or on whose behalf it was deposited.

(5) The countermanding of a notice that the provisions of this regulation are in force shall not affect the liability of any person for an offence committed before the publication of the countermanding notice.

102 Qualifications of operators of land mobile stations

(1) The minimum qualification to be held by each operator of a land mobile station shall be a radiotelegraph operators special certificate or a land radio telephone operators certificate as the case may require.

(2) If the frequency of emission of a radiotelephone transmitter is above 30 MHz no operators certificate shall be required.

103 Penalty where no other penalty provided

Any person who commits a breach of any of the regulations in this Part for which a penalty is not otherwise provided in this Part commits an offence and shall be liable on conviction to a fine not exceeding 2 penalty units for each such breach.

PART 4
LAND STATIONS

104 Types of licences

Land station licences may be issued for the following categories of land stations –

- (a) Coast stations;
- (b) Base stations.

105 Coast stations operating in bands between 405 kHz and 535 kHz

Every coast station licensed to use a radiotelegraph installation in the authorised bands between 405 kHz and 535 kHz shall be able to transmit class A2 or class A2H emissions and receive class A2 and class A2H emissions on the international calling and distress carrier frequency of 500 kHz.

106 Coast stations operating in bands between 1605 kHz and 2850 kHz

Every coast station licensed to use a radiotelephone installation in the authorised bands between 1605 kHz and 2850 kHz and capable of transmitting on the international calling and distress carrier frequency of 2182 kHz shall be able to transmit class A3 or class A3H emissions and receive class A3 and class A3H emissions on that carrier frequency.

107 Coast stations operating in bands between 156 MHz and 174 MHz

Every coast station licensed to use a radiotelephone installation in the authorised bands between 156 MHz and 174 MHz shall be able to transmit and receive class F3 emissions on the international calling and safety frequency of 156.80 MHz.

108 Coast stations to keep listening watch on 500 kHz

(1) All coast stations licensed to use a radiotelegraph installation in the authorised bands between 405 kHz and 535 kHz shall, during their hours of service, observe a listening watch on the international distress carrier frequency of 500 kHz twice each hour for 3 minutes, commencing at 15 minutes and 45 minutes past the hour, Greenwich Mean Time.

(2) During these periods all transmissions in the bands between 485 kHz and 515 kHz, except for distress, urgency or safety transmissions, shall cease.

109 Coast stations to keep listening watch on 2182 kHz

All coast stations licensed to use a radiotelephone installation in the authorised bands between 1605 kHz and 2850 kHz shall, during their hours of service, observe a listening watch on the international distress carrier frequency of 2182 kHz twice each hour for 3 minutes, commencing on the hour and half hour, Greenwich Mean Time. During these periods all transmissions between the frequencies of 2173.5 kHz and 2190.5 kHz, except for distress, urgency, or safety transmissions, shall cease.

110 Qualifications of operators of coast stations

The minimum qualification to be held by each operator of a coast station shall be a radiotelegraph operators special certificate or a restricted radiotelephone operators certificate as the case may require.

111 Qualifications of operators of base stations

(1) The minimum qualification to be held by each operator of a base station shall be a radiotelegraph operators special certificate or a land radiotelephone operators certificate as the case may require.

(2) Where the frequency of emission of a radiotelephone transmitter is above 30 MHz no operators certificate shall be required.

PART 5
FIXED STATIONS

112 Scope of licences

A fixed station licence may be issued for a fixed station and shall specify fixed points between which radiocommunications are authorised for that station.

113 Qualifications of operators

(1) The minimum qualification to be held by each operator of a fixed station shall be a radiotelegraph operators special certificate or a land radiotelephone operators certificate, as the case may require.

(2) Where the frequency of emission of a radiotelephone transmitter is above 30 MHz no operators certificate shall be required.

PART 6
AMATEUR STATIONS

114 Scope of licences

Amateur station licences shall authorise the establishment of stations in the amateur service.

115 Persons to whom licences may be issued

(1) Amateur station licences shall be issued only to the holders of amateur operators certificates, and shall be issued only to individuals.

(2) In the case of any society having as its sole or principal object the pursuit by its members of an interest in amateur radio a licence may be issued to an authorised official of the society as trustee therefor.

116 Qualifications of operators

(1) No person shall operate an amateur station unless he holds an amateur operators certificate nor shall the licensee of any such station cause or permit any person not being the holder of such a certificate to operate the said station.

(2) Any person not ordinarily resident in Niue who, in the country in which he is ordinarily resident, is the holder of an amateur station licence or an amateur operators certificate may operate an amateur station under the direct supervision of the licence.

117 Issue of authorisation to non-citizen

(1) Cabinet may and subject to such terms, conditions, and restrictions as it may prescribe in that behalf, issue an authorisation to permit any person who is not a New Zealand subject, and who is licensed by his Government as an amateur radio operator, to operate the amateur station licensed by his Government, in Niue.

(2) No authorisation shall be issued under paragraph (1) unless Cabinet is satisfied that the applicant's Government is willing to make reciprocal arrangements for the benefit of amateur radio operators holding amateur operators certificates issued by Cabinet.

(3) Cabinet may refuse to issue any authorisation under this regulation notwithstanding that the applicant's Government may be willing to make reciprocal arrangements as aforesaid, or may suspend or revoke an authorisation under this regulation.

(4) The holder of an authorisation under this regulation shall, subject to the terms and conditions of the authorisation, have in Niue all the rights and obligations of the holder of an amateur operators certificate issued by Cabinet.

118 Temporary operation at a different address

An amateur station licence shall authorise the establishment of an amateur station at the licensee's usual address or, during such times as the licensee may be temporarily absent from his usual address, the establishment by him of a station at a different address.

119 Communication permitted with other amateur stations only

Except in the case of emergency or where otherwise approved by the Superintendent, amateur stations shall be used for the purpose of communicating with other stations of the amateur service only.

120 Handling of third party messages prohibited

Licensees of amateur stations shall not engage in radiocommunication for any third party.

121 Licensees not to engage in radiocommunication for hire or material compensation

Licensees of amateur stations shall not engage in radiocommunication for hire or material compensation, direct or indirect, paid or promised.

122 Limitation on class of message

All radiocommunications from amateur stations, whether by speech or in Morse code, shall be conducted in plain language and shall be limited to messages of a technical nature relating to radio experiments and to remarks of a personal character for which, by reason of their unimportance, recourse to the public telecommunications service is not justified.

123 Transmission of news, entertainment, or recordings prohibited without prior approval

Except with the prior written approval of the Superintendent, the licensee of an amateur station shall not transmit matter by way of national or international news, or any matter by way of public entertainment, or which by virtue of its significance would be of concern, to the public generally, or any body of the public, and shall not transmit recordings of any kind.

124 Power permitted

(1) Except as may be authorised by Cabinet, the power permitted to be used in transmitting apparatus at an amateur station shall not exceed 150 watts direct current input to the final radio frequency stage or stages delivering power to the aerial.

(2) In those cases where the power input varies with the modulating component the measurement of the direct current input shall be made with the transmitter fully modulated and using meters of a type in which full-scale current causes 63 percent of full-scale reading in one quarter of a second or less.

125 Harmful interference to broadcast reception

(1) In the event of the operation of an amateur station causing harmful interference to broadcast reception by receiving apparatus which, in the opinion of the Superintendent or other authorised officer, is of reasonable selectivity, the licensee of the amateur station concerned shall when so required by the Superintendent or other

authorised officer, forthwith cease to operate the station on the frequency or frequencies which cause interference until the interference is removed.

(2) Should the complete elimination of the interference be impossible, the operation of the station may be resumed only with the permission of the Superintendent or other authorised officer on such conditions and at such times as may be prescribed.

SCHEDULE 1
FEES PAYABLE IN RESPECT OF LICENCES ISSUED UNDER THE RADIO
REGULATIONS 1972

	Description	Rate
1	For ship station licence if the ship is required by an enactment to be equipped with a radio transmitting installation	\$20 per annum
2	For ship station licence if the ship is not required by any enactment to be equipped with a radio transmitting installation, or for a land mobile station licence other than a short-term licence	\$20 per annum
3	For a fixed station licence other than a commercial or a short-term licence	\$2,000 per annum
4	For a commercial fixed station licence	\$10,000 per annum
5	For a land station licence other than a short-term licence for a base station	\$20 per annum
6	For a short-term licence for a base station, a fixed station or a land mobile station	\$20 for each station
7	Land mobile service licence	\$20 per annum
8	Land mobile station licence	\$20 per annum
9	Base station licence	\$20 per annum
10	Mobile station	\$20 per annum
11	For an amateur station licence	\$50 per annum
12	For a duplicate copy of any licence	\$20 per annum

SCHEDULE 2
FEES PAYABLE IN RESPECT OF CERTIFICATES ISSUED UNDER PART 2 OF THE
RADIO REGULATIONS 1972

1)	For examination	Description	Rate
	(a)	Radiotelegraph operators special certificate	\$20 per annum
	(b)	General radiotelephone operators certificate	\$20 per annum
	(c)	Restricted radiotelephone operators certificate	\$20 per annum
	(d)	Land radiotelephone operators certificate	\$20 per annum
	(e)	Amateur operators certificate	\$20 per annum
	(f)	Morse operating only	\$20 per annum
2)	For each examination paper in respect of which a recount of marks is undertaken:		
		\$20.00	
3)	For a duplicate copy of a certificate:	\$10.00	

TELEPHONE REGULATIONS 1968

SR 1968/25 – 1 April 1968

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1 Title

These are the Telephone Regulations 1968.

2 Interpretation

(1) In these Regulations –

“contract” means the agreement which is executed when application is made for telephone service;

“Department” means the Telecommunications Department and includes the Superintendent, and any officer of the Department acting in the premises;

“DSL” means Digital Subscriber Line;

“exchange” means a telephone exchange consisting of one or more offices containing switching apparatus by means of which intercommunication between the various subscriber’s stations connected therewith may be given;

“extension station” means a subsidiary station normally having access to the exchange line, with or without the intervention of the main station;

“individual line” means a subscriber’s line connecting one subscriber’s station with a telephone exchange;

“line” means a wire or wires or a conductor of any kind (including fibre optic cable) used or intended to be used for the transmission or reception of signs, signals, impulses, writing, images, sounds or intelligence of any nature by means of any electromagnetic system; and includes any pole, insulator, casing, fixing, tunnel or other equipment or material used or intended to be used for supporting, enclosing, surrounding or protecting any such wire or conductor; and also includes any part of a line;

“main station” means the subscriber’s main telephone apparatus on which incoming calls are normally received;

“PABX” means apparatus capable of making switching connections between telephone stations without such connections passing through the Telecom main exchange;

“party line” means a line connecting two or more subscribers’ stations with a telephone exchange;

“prescribed charge” means the charge stated in the Schedule for the service referred to in that Schedule;

“rental” means the amount which Cabinet charges for the use of the telephone equipment which forms part of a telephone exchange connection;

“residential” means any telecommunication service used for personal and residential purposes and includes non-government organisations, non-profit societies, churches and any other group or organisation approved by the Superintendent;

“subscriber” means the person who is recognised by Cabinet as the lessee of a telephone exchange connection;

“Superintendent” means Director of the Telecommunications Department of Government; and includes any officer of the Niue Public Service acting for the time being in the place of the Superintendent, whether during any vacancy in that office or otherwise.

(2) Notwithstanding the use in these Regulations or in any contract or other document of any of the words “lease”, “lessee”, and “rental”, or any similar words, no subscriber shall at any time be deemed to be in possession or entitled to possession of any line, telephone instrument, apparatus, or equipment, the property of the Government, except such as is from time to time for the time being installed within the buildings of the subscriber’s premises, and all other lines, apparatus, and equipment to which any contract relates shall be deemed to remain in the possession of the Government but to be the subject of a right in the subscriber to have the use and benefit of the same to the extent and in the manner provided by the contract and by these Regulations, and not further or otherwise.

PART 1

TELEPHONE EXCHANGE SERVICES

3 Telephone services subject to Regulations

All telephone services furnished by the Department shall be subject to these Regulations and to all amendments and extensions thereof and substituted regulations at any time in force, and it shall be a condition implied in every contract for telephone services, heretofore or hereafter made by the Department that the contract shall be so subject.

4 Applications for service

(1) Applications for telephone exchange service shall be made in writing on the form of application and contract supplied for that purpose.

(2) Any application made on behalf of a partnership or a company shall be signed by one of the partners or by an authorised officer of the company respectively.

(3) Except where special services are sought, the application and contract shall be in a form approved by the Superintendent.

5 Service connection fee

(1) A service connection fee prescribed in the Schedule shall be payable in respect of each new or additional connection (main station), except in the case of a temporary connection as provided for in regulation 40.

(2) (a) Cabinet may, in special circumstances, waive or reduce the fee.
(b) The fee shall be an initial charge only, and shall be payable at the time of application for service.

6 Rates and other charges

(1) Telephone services shall be subject to the rates and other charges appropriate to the classes of service provided as prescribed in the Schedule, and shall be for such minimum period as the Superintendent may determine at the time of application, and shall be continued thereafter until the subscriber gives notice in writing that the service is to be discontinued or until the Department discontinues the service.

(2) Every contract for the hire of instruments shall be deemed to be for the minimum period referred to therein and thereafter until discontinuance of the service as aforesaid, subject to the rights of the Department to discontinue the service, notwithstanding that the minimum period may not have expired.

7 Charges for telegrams

In addition to being liable for the payment of any telephone charges in respect of the telephone exchange connection leased by him, a subscriber shall be liable for the charges in respect of all telegrams telephoned from his telephone station to a telegram office for onward transmission.

8 Refusal or discontinuation of service

The Superintendent may –

- (a) Refuse to comply with an application for connection with any telephone exchange system, or for the transfer of any existing telephone service or for the construction of any telephone line;
- (b) Disconnect a subscriber's telephone from one exchange should he consider such action desirable;
- (c) Discontinue giving service at any exchange if other suitable arrangements can be made for serving the subscribers;
- (d) Instead of refusing absolutely to comply with any application, accede thereto only upon such conditions as to security, nature of service (including type of apparatus) to be afforded, special minimum period of contract, or other conditions as he may think fit.

9 Business stations

For the purposes of assessment, a subscriber's station shall be deemed to be a business station –

- (a) If it is installed in premises that are used as a warehouse, shop, office, boardinghouse, or otherwise wholly or in part for business purposes, including a private residence so used;

(b) If in any other way it bears *prima facie* evidence of being used for business purposes, or, in the opinion of the Superintendent is so used.

10 Residential station used for a business

Whenever in the opinion of the Superintendent a station assessed as a residential station is used for a business, the Superintendent may require payment at the rate prescribed for a business station from the date when in his opinion it was so used.

11 Cable and Equipment

(1) Every subscriber shall, as part of and for the duration of the subscription, receive the cable and equipment essential to the provision of the subscription service.

(2) Any cable or equipment beyond that essential to the service that the subscriber requests will, if provided, be provided at the cost of the subscriber.

(3) Where under paragraph (2) additional cable or equipment is provided for a subscriber, and that additional cable or equipment is being used or will be used for the service of others or for Government purposes, the subscriber will not be charged for that additional cable or equipment.

12 Telephone directory to be supplied

For the rates prescribed for telephone exchange stations the Department shall supply one copy of the telephone directory for each telephone, and provide and maintain all necessary exchange equipment, subscribers' lines, and one telephone per station.

13 Superintendent may alter or change number

No subscriber shall have any right to or interest in any particular number, and the Superintendent may alter or change any number at his discretion.

14 Use of telephone exchange lines

(1) Except in cases in which the preservation of human life or the protection of public property may be involved, or as otherwise provided in these Regulations, telephone exchange lines shall be used only by the subscriber, his family, guests, and employees, and exclusively on his or their affairs.

(2) On breach of this regulation the Superintendent may cause the telephone service to be discontinued.

15 Party line service

Party line service shall be provided to the extent that the equipment available in the telephone exchange permits, and then only when the subscribers desiring to be connected with the same line can in the opinion of the Department conveniently be served from the same point of distribution.

16 Regrouping of subscribers on party lines

The Superintendent may regroup the subscribers on party lines, and may make additional connections to party lines, without the consent of the existing subscribers.

17 Duration of conversation over party line

A conversation over any party line shall not exceed six minutes in duration if the line is required by any other person.

18 Calls over party line exceeding reasonable use of line

When in the opinion of the Superintendent the number of calls originated or received by any subscriber connected with a party line precludes a reasonable use of the line by the other parties, the Superintendent may require the subscriber either to rent an individual line or to be transferred to a line with which there will be smaller number of parties connected.

19 Rating system for annual charges

For every subscriber's main station there shall be payable an annual charge covering an unlimited number of local calls and fixed according to –

- (a) Whether the station is a business station or residence;
- (b) Whether the station is on an individual line, or a party line.

20 Rate charge

Subject to regulation 15, and unless otherwise specified in these Regulations, individual, 2, 3, 4 and 5 party line service shall be furnished to stations at the rates prescribed in the Schedule.

21 System of payment

All prescribed charges for telephone exchange service shall be paid in accordance with the terms and conditions provided by the Department.

22 –

23 Defaulter in respect of charges

If a subscriber becomes a defaulter in respect of any charges due under the conditions of contract, or any other telephone charges due under these Regulations, he shall not be furnished with telephone service of any kind until he has discharged his liability to the Department.

24 Service obtained by defaulter in other name

If the Superintendent is satisfied that any service is being obtained either in his own or any other name by a person who is, in the opinion of the Superintendent, a defaulter in connection with any telephone service furnished by the Department, Cabinet may cause the telephone service to be discontinued.

25 Reconnection fee

(1) In the event of any subscriber's service being discontinued under regulation 22, a reconnection fee, prescribed in the Schedule in addition to all other amounts due, shall be payable by the subscriber before the service is restored.

(2) If the instruments at the subscriber's premises have been removed, or if any portion of the circuit has been dismantled, a request for application for restoring the circuit shall be treated as an application for a new connection.

26 Refund of rental

Should a subscriber discontinue the renting of a service during the currency of a period for which rental has been paid in advance, a refund of rental shall be granted in respect of the unexpired term if it exceeds seven days, but no refund shall be granted in respect of any portion of the minimum period originally provided for in the contract.

27 Adjustment of rental

(1) In the event of the number of subscribers' stations connected with a line being reduced by the withdrawal of one or more of the subscribers, the amended rates prescribed in respect of the remaining stations shall take effect from the first day of the next half yearly period for which accounts are to be issued.

(2) In the event of the number of subscribers' stations connected with a line being increased, the new or additional subscriber shall pay rental from the date of their connection at the rates prescribed for the amended number of stations connected with the line; but no alteration shall be made in the rentals of the original stations until the first day of the following month.

(3) Notwithstanding paragraphs (1) and (2), a reduction in the number of subscribers' stations connected with a party line shall not affect the rental of a subscriber until the expiration of the minimum period originally provided for in the contract.

28 Telephone directory listings

For each subscriber's main station one free entry will be published in the telephone directory to contain not more than one line of print and to consist of the name or firm name of the subscriber or his nominee, his business (in the case of a business station), his address, and the telephone number.

29 Supply of equipment

(1) All lines, telephone instruments, equipment, and fittings in connection with the telephone exchange system, except where otherwise provided by these Regulations, shall be supplied and erected by the Department, and, except with the authority of the Department, no person other than an employee of the Department provided with proper means of identification shall interfere with or make any additions or alterations to any such electric line, instrument, equipment, or fitting under the Department's control.

(2) In the event of any such interference by any unauthorised person, the subscriber concerned shall be liable to have his service discontinued without prejudice to any other liability that may be incurred.

30 Inspection of equipment

Employees of the Department provided with proper means of identification shall at all reasonable times have free access to the premises of any subscriber for the purpose of inspection, removal, or replacement of the departmental apparatus therein.

31 Precautions to prevent damage or injury

The Superintendent shall take reasonable precautions to prevent damage or injury to subscribers or their premises from fire or other cause by reason of the installation of telephone apparatus, but neither the Superintendent nor the Government shall be liable for any damage or injury that may arise from the failure of any such precautions.

32 Damage to equipment

(1) In the event of any instrument, battery, or equipment on the premises of a subscriber being lost, wholly destroyed, or partially damaged through any means whatever (other than fair wear and tear), the subscriber shall pay to the Department on demand, the cost to the Department of replacing or repairing the instrument, battery, or equipment; but no charge shall be made in respect of any instrument, battery, or

equipment accidentally destroyed or damaged by fire, earthquake, or other inevitable catastrophe.

(2) This regulation shall apply notwithstanding that there has been no negligence on the part of the subscriber or any person for whom he is responsible, and notwithstanding that the loss, destruction, or damage may have arisen from some cause not due to the act or default of the subscriber.

33 Cleansing of telephone

Any person who, not being the subscriber or an employee of the subscriber, cleans, without the written permission of the Department, the mouthpiece or earpiece of any telephone the property of the Department, for fee or reward, commits an offence against these Regulations.

34 Interference with equipment

(1) No person shall damage or destroy or interfere with any line, telephone instrument, apparatus, or equipment being the property of the Government, whether supplied under this Part or under any other Part or otherwise, and whether or not in the possession or control of that person, or cause or suffer the same to be damaged or destroyed or interfered with, or put the same or cause or suffer the same to be put to any improper use.

(2) For the purpose of this regulation, interference includes the removal from its regular place of any instrument, apparatus, or equipment unless supplied as intended to be portable; and also includes the removal or detachment of a part of any instrument, apparatus, or equipment unless supplied as intended to be at the discretion of the user detachable; and also includes the adjustment, maintenance, repair and modification of any instrument, apparatus, or equipment, and the incorporation therein or connection therewith or addition thereto of any additional or other instrument, apparatus, or equipment.

(3) Every person who commits a breach of this regulation commits an offence against these Regulations.

35 Transmission of communications or musical items

(1) No person shall use any telephone instrument, or cause or suffer any telephone instrument to be used, for the transmission of communications of a nature calculated to annoy or irritate any person.

(2) No person shall without the authority of Cabinet, use any telephone instrument, or cause or suffer any telephone instrument to be used, for the purpose of transmitting musical items, whether they be derived from direct vocal or instrumental performance or from radio broadcast transmission or from mechanically operated musical instruments or reproducing instruments or otherwise.

(3) Every person who commits a breach of this regulation commits an offence against these Regulations.

36 Service discontinued for illegal or improper use of instrument

Cabinet may cause the telephone service of any subscriber to be discontinued –

- (a) If any person is convicted of a breach of regulations 34 or 35 involving the use of a telephone instrument belonging to the telephone service; or
- (b) If, in the opinion of Cabinet, a telephone instrument belonging to that telephone service has been used in a manner contrary to regulations 34 or 35;

(c) If, in the opinion of Cabinet, a place of business or house or other premises where a telephone instrument belonging to that telephone service is situated is or are used for any illegal, immoral, or improper purpose.

37 Interruptions of service

(1) Neither Cabinet nor any officer of the Department nor the Government shall be liable for any action, claim, or demand for compensation for interruption of telephone service arising from any cause whatsoever.

(2) When a subscriber moves from one part of a village to another, and the Department is unable to provide him with telephone service within seven days, an allowance shall be made of the amount of the rental corresponding to the number of days during which the subscriber is deprived of telephone service.

38 Overloaded lines

With a view to reducing the number of ineffective calls due to overloaded lines, the Superintendent may require any subscriber on whose line or lines the number of such calls exceeds 25 percent of the number of effective incoming calls to rent an additional circuit, in default of which telephone service may be discontinued.

39 Removal of plant

(1) Whenever telephone service is discontinued pursuant to any of these Regulations, it shall be lawful for employees of the Department provided with proper means of identification to enter the premises in which are installed any wires, instruments, apparatus, or equipment of the Department and to remove the same from the premises, without prejudice to the subscriber's liability for any unpaid rental or other charges due and owing or occurring under these Regulations; and no liability or claim for damages on the part of any person shall be against Cabinet or any officer or employee of the Department or the Crown, whether by reason of the discontinuance notice, entry, or removal, or on any ground.

(2) Any person who, without lawful justification, refuses to deliver to any employee of the Department any wires, instruments, apparatus, or equipment of the Department to the possession of which he is not for the time being entitled commits an offence against these Regulations, without prejudice to any other liability that may be incurred.

PART 2
MISCELLANEOUS TELEPHONE SERVICES

40 Temporary telephone service

(1) When telephone service is desired for a shorter term than the period determined under regulation 6, the service may be granted conditionally on the applicant making application in writing in a form approved by the Superintendent and paying, in addition to the estimated cost involved in establishing the service, the cost of labour, transport of labour, transport of material, and value of any material which is perishable or is so dealt with in making the installation as in the opinion of the Department not afterwards to be conveniently usable, a charge based on the rate for a permanent connection.

(2) The estimated cost of establishing the service and the minimum charge shall be payable before the service is provided.

(3) (a) In the event of the subscriber ultimately deciding to have the temporary service converted to an ordinary permanent one, the usual contract shall be

executed, and the prescribed charge shall take effect from the date of completion of the contract;

(b) In any such case the cost of making the connection shall be refunded, but the usual service connection fee must be paid.

(4) Temporary extension telephones may be installed on payment of the usual installation charges as for temporary connections.

(5) Rental shall be charged at the rate prescribed in the Schedule.

41 Joint use of telephone

(1) Any subscriber may with the approval of the Superintendent and upon payment of the fee prescribed in the Schedule obtain the right to allow the use of his telephone instrument to any person occupying an office in the same building, or occupying the same private residence, within which the telephone instrument is placed.

(2) (a) In any such cases the subscriber shall make application in writing in a form approved by the Superintendent and be responsible for all service charges and toll charges, but may charge to the person or persons having the joint use of the telephone any portion of the charges.

(b) The fee applicable to joint use entitles each of the joint users to the insertion of his name in the telephone directory.

(3) If any extension telephones are involved the charges for those instruments shall be determined by the Superintendent.

42 Removals

(1) Subject to the approval of the Department, subscribers may have their telephones and apparatus removed to other premises, or the position of their telephones and apparatus altered, upon giving sufficient notice in writing and paying the fees prescribed in the Schedule.

(2) In the event of a subscriber removing from or giving possession of the premises in which the telephone is situated without making arrangements approved of by the Superintendent for the removal of the telephone or discontinuance of the service, Cabinet may cause the service to be discontinued.

43 Change of apparatus

Subject to the approval of the Department, a subscriber may obtain a change of apparatus upon making application in writing, including an agreement to pay any additional rental involved and upon payment of the installation charges prescribed in the Schedule.

44 Transfer of connection

(1) A fee, as prescribed in the Schedule, shall be payable for the transfer of an existing exchange connection whether the transfer necessitates a removal or not. The application for transfer shall be in a form approved by the Superintendent and all outstanding toll fees shall be paid before the transfer is granted.

(2) Any rental held by the Department in respect of the period subsequent to the date of transfer shall be credited to the account of the transferee.

(3) The transfer of a telephone involving its removal shall be granted only in exceptional circumstances or where the transfer is to take place before the expiration of the minimum period provided for in the contract, and on payment of the usual removal charges.

45 New occupier to obtain transfer

A person who has entered into the occupation of any premises having telephone service shall not be entitled to make use of the telephone until he has obtained a transfer; and, if any such person makes use of the service before obtaining a transfer, he shall be deemed to have assumed the service, and (without prejudice to any liability of the subscriber or any right or power of the Department) shall be liable for all amounts owing in respect of the service of the time when he entered into occupation of the premises, as well as amounts which become payable in respect of any use of the telephone after that time.

46 Subscriber not to sell service

(1) A subscriber shall not sell or offer for sale his telephone service, nor shall a subscriber accept a monetary offer for the transfer of his telephone.

(2) If in Cabinet's opinion any subscriber violates this regulation, or if any telephone connection is obtained by the violation of this regulation, Cabinet may cause the telephone service in respect of which the offence is committed to be discontinued.

(3) Nothing in this regulation shall prevent the transfer of a telephone service to a new or existing subscriber, with the consent of the Department, upon or in connection with a bona fide change in the occupancy of the premises in which the service is installed.

47 Change in intercommunicating system

(1) Subject to the approval of the Department, and on making application in a form approved by the Superintendent, including an agreement to pay the cost of the labour and incidental expenses involved in installing the necessary apparatus, telephones and the associated wiring, a subscriber may obtain telephones and switching facilities for intercommunication between various positions in the same premises.

(2) The charges for intercommunicating services are as prescribed in the Schedule.

(3) (a) In this regulation and in regulation 48 the term "same premises" includes various buildings detached from one another but within the same boundaries as the main premises and forming part of the same establishment, but does not include separate dwellings on the same property.

(b) The Superintendent may, however, authorise, in special circumstances the installation of extension stations involving wires crossing a public street or road or another person's property.

48 Extension telephones

(1) Extension telephones and other miscellaneous equipment required within the same building or upon the same premises (as defined in regulation 47(3)) as the main station shall be furnished and maintained by the Department upon payment of the installation and rental charges prescribed in the Schedule.

(2) An extension telephone shall not be installed in a subscriber's business premises if the main station with which it is associated is paid for as a residence station.

49 Private branch exchange

(1) The equipment of a private branch exchange shall include a switchboard or switching apparatus of sufficient capacity to provide accommodation for all exchange lines and extension stations required by the subscriber, together with the necessary batteries, ringing devices, fitting, and one telephone or operator's set for each switchboard position.

Communications

(2) The cost of power for charging and recharging any secondary batteries associated with a private branch exchange shall be borne by the subscriber.

PART 3 GENERAL PROVISIONS

50 Government may enter into contracts

Nothing in these Regulations shall affect the power of the Government to enter into contracts for the provision of special equipment and wiring arrangements in cases not provided for by these Regulations.

51 Penalty for offences

Every person who commits an offence against these Regulations is liable to a fine not exceeding 0.5 penalty units.

SCHEDULE

PART A - RATES FOR STATIONS (REG.20)

Class of Station	Rate (per month)
Residential telephone	\$9.00
Business telephone	\$15.00
Government telephone	\$15.00
Residential facsimile	\$9.00
Business facsimile	\$15.00
Government facsimile	\$15.00
Personal Mobile or cellular phone	\$15.00
Business Mobile or cellular phone	\$20.00

PART B - TEMPORARY TELEPHONE SERVICE (REG.40)

Class of Station	Rate (per month)
Residential telephone	\$15.00
Business telephone	\$15.00
Government telephone	\$15.00
Residential facsimile	\$15.00
Business facsimile	\$15.00
Government facsimile	\$15.00

PART C - JOINT USE OF TELEPHONE (REG.41)

Class of Station	Rate
Residential	\$ 9.00
Business	\$15.00
Government	\$15.00

PART D - EXTENSION STATIONS (REG.48)

Service	Rate
Installation of telephone service	\$20.00 per installation
Extension telephone	\$8.00 per month

PART E - CHANGE OF APPARATUS (REG.43)

Description of change	One change	Each additional change in same premises at same time
Change to another telephone	\$20.00	\$10.00
Conversion of a manual extension telephone from non-intercommunicating to intercommunicating	\$20.00	\$10.00

PART F - INTERCOMMUNICATING SERVICE (REG.47)

- (1) The subscriber is charged the cost of the labour and expenses involved for —
 - a. Providing a new extension station or system;
 - b. Adding to or altering an existing system;
 - c. Changing to another system;
 - d. Replacing a system by another of greater capacity;
 - e. Installing switchboards at the request of the subscriber, in excess of the number required to handle the normal traffic;
- (2) The charges for the installed equipment are as follows:

Class of Station	Rate
Each trunk line to main exchange	\$100.00 per installation
Each extension station	\$20.00 per installation
PABX extension	\$5.00 per month

PART G - MISCELLANEOUS FEES AND CHARGES

- 1) Service Connection Fee (Reg.4)

Class of Station	Rate
Residential telephone	\$100.00
Business telephone	\$100.00
Government telephone	\$100.00
Residential facsimile	\$100.00

Communications

Business facsimile	\$100.00
Government facsimile	\$100.00
Mobile phone, Personal & Business	\$ 80.00
New customer moving into premises already wired	\$50.00
DSL Line	\$100.00
DSL Line lease	\$ 40.00 per month

2) Reconnection fee (Reg. 25)

Class of Station	Rate
Residential	\$20.00
Business	\$20.00
Government	\$20.00

3) Transfer fee (Reg.44)

Class of Station	Rate
Residential	\$20.00
Business .	\$20.00
Government	\$20.00

4) After-hours reconnection

Class of Station	Rate
Residential	\$60.00
Business	\$60.00
Government	\$60.00

PART H - REMOVAL OF TELEPHONES (REG.42)

Service	Rate
Removal of telephone to adjacent building	\$20.00
Removal of telephone to another room in the same premises	\$15.00
Removal of telephone to a point in the same room	\$10.00
Removal of telephone to a distant extension	\$20.00

COMPANIES

COMPANIES REGULATIONS 2006

2006/5 – 1 August 2006

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		SCHEDULES

1 Title

These regulations are the Companies Regulations 2006.

2 Commencement

These regulations come into force on 1 August 2006.

3 Interpretation

(1) In these regulations, unless the context otherwise requires, “Act” means the Companies Act 2006.

(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.

PART 1

REGISTRAR'S FORMS AND FEES

4 Office hours

The office of the Registrar must be open to the public for the transaction of business on every working day, during such hours as the Registrar of Companies fixes from time to time, either generally or in any particular case.

5 Forms

(1) The forms set out in Schedule 1 must be used for the purposes of the Act, and the particulars contained in those forms are prescribed as the particulars required under the Act.

(2) If a prescribed form continues on 2 or more pages the following heading must appear at the top of each of those pages:

Name of company/* proposed company*	Company number
--	----------------

**Delete if not applicable*

(3) A form in Schedule 1 may be varied as the circumstances of any particular case may require.

6 Fees

The fees set out in Part 1 of Schedule 2 are payable to the Registrar in respect of the matters to which they relate.

7 Penalties

(1) Subject to subclause (2), the amounts specified in Part 2 of Schedule 2 are payable by way of penalty for failure to deliver a document to the Registrar within the time prescribed by the Act.

(2) If any document is delivered to the Registrar after the time specified in the Act in respect of the document, and the Registrar is satisfied that the omission to deliver the document within the time limit was accidental or due to inadherence, or that it is just and equitable to do so, the Registrar may remit wholly or partly the fee payable in respect of the late delivery of the document.

8 General requirements for documents

(1) All documents prepared to be registered or to be delivered, sent, or forwarded to the Registrar must be legible.

(2) If a document is required to be signed —

(a) the signature must be an original signature; and

(b) the name of the signatory must be legibly typed, printed, stamped, or written below the original signature.

(3) The Registrar may accept documents in electronic form, and may determine the requirements, including any requirements in respect of signature, that apply in respect of documents provided in electronic form. Subclause (1) and (2), and regulation 5, apply to documents provided in electronic form subject to any modifications determined by the Registrar.

9 Documents must be in the Niuean or English languages

(1) Subject to subclause (4), all documents filed with the Registrar must be in the Niuean language or English.

(2) The Registrar may require a person who files a document in English to provide the Registrar with a verified translation into the Niuean language within the time that the Registrar specifies.

(3) The Registrar may require a person who files a document in the Niuean language to provide the Registrar with a verified translation into English within the time that the Registrar specifies.

(4) A person may, if it is necessary to do so, file a document that is not in the Niuean language or in English (for example, the document constituting or defining the constitution of an overseas company), but the document must be accompanied by a verified translation.

PART 2
ANNUAL REPORT AND FINANCIAL STATEMENTS
Annual report

10 Contents of annual report for public companies

(1) Every annual report for a public company must be in writing and be dated and, subject to subclause (3), must—

- (a) state, in respect of each director or former director of the company, the total of the remuneration and the value of other benefits received by that director or former director from the company during the accounting period; and
- (b) state the total amount of donations made by the company during the accounting period; and
- (c) state the amounts payable by the company to the person or firm holding office as auditor of the company as audit fees and, as a separate item, fees payable by the company for other services provided by that person or firm.

(2) A company that is required to include group financial statements in its annual report must include, in relation to its subsidiaries, the information specified in subclause (1).

(3) The annual report of a company need not comply with paragraphs (a) to (c) of subclause (1) if, and to the extent that, all shareholders agree that the report need not do so.

Financial statements

11 Form of financial statements

(1) Subject to subclause (2), financial statements of a company prepared for the purposes of the Act—

- (a) must be in the form set out in Schedule 3; and
- (b) must contain the information required by that form; and
- (c) may contain any other information that the board of the company considers to be appropriate for inclusion in the financial statements.

(2) If, in the financial statements of a company, the amount of an item for an accounting period is not material and the amount of that item for the preceding accounting period is also not material, neither of those items need be separately disclosed.

12 Directions for preparation of financial statements

Financial statements of a company prepared for the purposes of the Act must comply with the following accounting policies:

Accrual accounting

Accrual accounting must be used to record the effects of transactions and events when they occur.

Accounts receivable

Accounts receivable must be stated at their estimated net realisable value.

Depreciation

must be calculated either—

- (a) using the rates permitted under the Income Tax Act 1961; or
- (b) on a systematic basis over the economic life of the asset.

Inventories

Inventories must be valued at the lower of cost and net realisable value.

Non-current assets

Non-current assets must be stated at cost or valuation less aggregate depreciation or amortisation.

Income tax

Income tax must be accounted for by the taxes payable method.

13 Financial statement of public companies

In addition to the requirements of clauses 11 and 12, the financial statements of a public company must either—

- (a) comply with international accounting standards; or
- (b) if the financial statements of a public company do not comply with international accounting standards, state how, and why, the financial statements do not comply with those accounting standards.

PART 3

LIQUIDATIONS

Prescribed amount for statutory demand

14 Prescribed amount for statutory demand

The sum of \$1,500 is the amount prescribed for the purposes of section 221(2)(a) of the Act.

Prescribed forms

15 Claim by unsecured creditor

A claim by an unsecured creditor under clause 6(1) of Schedule 18 of the Act must be in form 1 in Schedule 4.

16 Secured creditor valuing security and claiming as unsecured creditor for balance due

A valuation and claim by a secured creditor under clause 9 of Schedule 18 of the Act must be in form 2 in Schedule 4.

Remuneration of liquidators

17 Remuneration of certain liquidators

Unless the Court otherwise orders under clause 14(2) of Schedule 14 of the Act, the remuneration of every liquidator appointed under section 217 of the Act is the greater of either—

- (a) an amount of \$3,000; or
- (b) a fee calculated on an hourly rate in accordance with the following:
 - (i) for work undertaken by the liquidator, \$97.50 per hour or part of an hour;

- (ii) for work undertaken by an accountant or solicitor employed by the liquidator, \$105 per hour or part of an hour;
- (iii) for work undertaken by any other employee of the liquidator, \$60 per hour or part of an hour.

Court proceedings

18 Application of Schedules 5 to 7

- (1) Schedules 5 to 7 apply in respect of every application to the Court—
 - (a) for putting a company into liquidation; or
 - (b) for an order under section 102 of the Act.
- (2) Clauses 36 and 37 of Schedule 5 apply in respect of a notice under clause 8 of Schedule 17 of the Act.
- (3) The rules of procedure and general practice of the Court apply to applications to which subclause (1) applies and notices to which subclause (2) applies except in so far as they are modified by or inconsistent with Schedules 5 and 6 of these regulations or the Act, as the case may be.
- (4) A form in Schedule 6 may be varied as the circumstances of any particular case may require.
- (5) In Schedules 5 to 7, “Registrar” —
 - (a) means a Registrar of the Court; and
 - (b) includes a Deputy Registrar of the Court.

Schedule 1
Form 1
Application for incorporation of company
Section 6, Companies Act 2006

[If there is insufficient space on the form to supply the information required, attach a separate sheet containing the information set out in the prescribed format.]

Name of proposed company

Place a tick✓ in the appropriate box

Private company	<input type="checkbox"/>	<input type="checkbox"/>	Public company	<input type="checkbox"/>
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Address of registered office

[This must be a physical address in Niue and must not be a PO Box or Private Bag address]

Postal address

	<i>Tick✓ one</i>
Rules differ from model rules	
Model rules for private company apply	
Model rules for single shareholder company apply	
Model rules for public company apply	

Directors

The following persons are the directors of the proposed company:

Full legal name*	Residential address and postal address	Email address [optional]

**Please give first name(s) followed by surname in BLOCK letters.*

Share parcels

The following persons are the shareholders of the proposed company:

Full legal name*	Address†	Number of shares [Please indicate if shares are held jointly.]

**In the case of a natural person, please give first name(s) followed by surname in BLOCK letters.*

†In the case of a natural person, please give residential address. In the case of a body corporate, please give the address of its registered office or, if it does not have a registered office, of its principal place of business.

Total number of shares:

The following must accompany this form:

- 1 The consent by each person named as a director to act as a director of the company. [Please use form 2 for this purpose.]
- 2 A copy of the rules of the company, if they differ from the model rules.
- 3 The prescribed fee.

Signature of applicant: Date:

Full legal name of applicant:

Address of applicant:

[If there is more than 1 applicant, each must sign and provide full legal name and address in the prescribed format.]

Completed by		Email*	
Address		*Optional	
		Telephone	
		Facsimile*	
		*Optional	

Form 2
Consent of director or directors
Sections 6, 86, 88, 144, Companies Act 2006

[If there is insufficient space on the form to supply the information required, attach a separate sheet containing the information set out in the prescribed format.]

Name of company		Company number	
-----------------	--	----------------	--

Director's first Name(s)		Director's surname	
--------------------------	--	--------------------	--

[Please ensure your full legal name is provided—initials are not allowed.]
[Please read the disqualification details below.]

I consent to be a director of the above proposed company and certify that I am not disqualified from being appointed or holding office as a director of a company.

Signature	
-----------	--

Director's residential address	
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Director's postal address	
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Disqualification details

Please ensure that you are not disqualified from being a director of this company before signing this consent form.

A person who is not a natural person cannot be a director of a company.

A person cannot be a director of a company if he or she is any of the following:

- under 21 years of age;
- an undischarged bankrupt;
- prohibited from being a director or promoter of or being concerned or taking part in the management of a company under the Companies Act 2006;
- a person in respect of whom a trustee order is in force under section 501 of the Niue Act 1966, or in respect of whom an order of medical custody is in force under section 602 of the Niue Act 1966;
- not eligible because of requirements contained in the company's rules.

Completed by		Email* <i>*Optional</i>	
Address		Telephone	
		Facsimile* <i>*Optional</i>	

Form 3
Application to change name of company
Section 11, Companies Act 2006

Existing name of company		Company number	
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Proposed name of company	
--------------------------	--

[This application must be made by a director of the company with the approval of its board or by a person authorised by the company's rules.]

Signature of director/
authorised person: Date:

Full legal name of director/Authorised person:

Completed by		Email* <i>*Optional</i>	
Address		Telephone	
		Facsimile* <i>*Optional</i>	

Companies

Form 4
Notice of adoption or alteration of rules
Section 14, Companies Act 2006

Company name	Company number	
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The company has—

Place a tick✓ in the appropriate box

<input type="checkbox"/>	adopted model rules for private company	Date*	
<input type="checkbox"/>	adopted model rules for single shareholder company	Date*	
<input type="checkbox"/>	adopted model rules for public company	Date*	
<input type="checkbox"/>	adopted new rules which differ from model rules	Date*	
<input type="checkbox"/>	altered its rules	Date*	

**Please insert the date on which the company adopted or altered its rules (as the case may be).*

A copy of the rules as adopted/†alteration to the rules† is attached to this notice.

†Delete if not applicable.

Model rules need not be attached to this notice.

Signature of director/
authorised person: Date:

Full legal name of director/Authorised person:

Completed by		Email* <i>*Optional</i>	
Address		Telephone	
		Facsimile* <i>*Optional</i>	

Form 5
Notice of change of registered office or postal address
Section 18, Companies Act 2006

Company name		Company number
Address of new registered office [<i>if applicable</i>]		

The change in the registered office of the company takes effect on

Day	Month	Year	
-----	-------	------	--

New Postal address [<i>if applicable</i>]	
--	--

The change in the postal address of the company takes effect on

Day	Month	Year	
-----	-------	------	--

Important information

- A company must have a registered office and a postal address in Niue.
- The postal address may be the company's registered office or another place, including a PO Box or private bag.
- The registered office may be at the company's place of business or another place, but it must not be a PO Box or private bag.
- If the registered office or the postal address is at the offices of any firm of chartered accountants, barristers and solicitors, or any other person, you must state that the company's registered office or its postal address is at the offices of that firm or person and also state the particulars of the location in any building of those offices.
- If the registered office or postal address is not at the offices of any such firm or person but is located in a building occupied by persons other than the company, you must state the particulars of its location in the building.

Note: The change in registered office or the change in postal address takes effect on the later of—

- the date that is 5 working days after the notice is received by the Registrar; or
- any date specified in the notice as the date on which the change is to be effective.

Postal address to which communications from the Registrar may be sent	
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Signature of director/
authorised person: Date:

Full legal name of director/authorised person:

Companies

Completed by		Email*	
Address		*Optional	
		Telephone	
		Facsimile*	
		*Optional	

Form 6
Notice of issue of shares
Section 26(2), Companies Act 2006

[If there is insufficient space on the form to supply the information required, attach a separate sheet containing the information set out in the prescribed format.]

Company name	Company number	
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Issue of shares

Shares prior to this issue	(a)
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Set out in the table below are the particulars of the issue of shares by the above company.

Date of issue	Number of shares

Total shares issued in this issue	(b)
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Total company shares (a + b = c)	(c)
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Signature of director/
authorised person: Date:

Full legal name of director/authorised person:

Completed by		Email*	
Address		*Optional	
		Telephone	
		Facsimile*	
		*Optional	

Form 7
Notice of acquisition by company of own shares
Section 31(3), Companies Act 2006

[If there is insufficient space on the form to supply the information required, attach a separate sheet containing the information set out in the prescribed format.]

Company name		Company number	
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Set out in the table below are particulars of the acquisition by the above company of its own shares.

Name of person(s) from whom shares acquired	Number of shares acquired	Date of acquisition

Are the shares cancelled? [tick <input type="checkbox"/> if applicable]		
Yes	<input type="checkbox"/>	<input type="checkbox"/>
No*	<input type="checkbox"/>	<input type="checkbox"/>
Total number of company shares after acquisition	<input type="text"/>	<input type="text"/>

*[*Shares acquired by a company are cancelled unless its rules expressly provide otherwise. Only tick this box if the company has rules that differ from the model rules, and expressly provide that the relevant shares are not cancelled on acquisition.]*

Signature of director/
authorised person: Date:

Full legal name of director/authorised person:

Completed by		Email* <i>*Optional</i>
Address		Telephone
		Facsimile* <i>*Optional</i>

Form 8
Notice of redemption of shares by company
Section 35(5), Companies Act 2006

[If there is insufficient space on the form to supply the information required, attach a separate sheet containing the information set out in the prescribed format.]

Company name		Company number	
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Set out in the table below are particulars of the redemption of shares by the above company.

Name of person(s) whose shares are redeemed	Number of shares redeemed	Date of redemption

Are the shares cancelled? [tick <input type="checkbox"/> if applicable]		
Yes		
No*		
Total number of company shares after redemption		

*[*Shares redeemed by a company are cancelled unless its rules, or the terms of issue, provide otherwise. Only tick this box if the company's rules or the terms of issue, provide that the relevant shares are not cancelled on redemption.]*

Signature of director/
authorised person: Date:

Full legal name of director/authorised person:

Completed by		Email* <i>*Optional</i>	
Address		Telephone	

Form 9

Notice of change of directors, or in the name, residential address or postal address of directors

Section 88(1), Companies Act 2006

[If there is insufficient space on the form to supply the information required, attach a separate sheet containing the information set out in the prescribed format.]

Company name		Company number	
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***Director(s) ceasing to hold office**

[Please provide director's full legal name.]

First name(s)	Surname	Residential address and postal address	Date on which director ceased to hold office

**Complete only if applicable.*

***Appointment of new director(s)**

[Please provide director's full legal name.]

First name(s)	Surname	Residential address and postal address	Date of appointment

[In the case of the appointment of a new director, the consent and certificate of the new director must be attached to this form. Please use form 2 for this purpose.]

**Complete only if applicable.*

***Change of name or residential address or postal address of director**

[Attach separate sheets for multiple entries.]

Director's surname	Former surname*
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**Complete only if applicable.*

First name(s)	Former first name(s)*
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**Complete only if applicable.*

Companies

Residential address		Former residential address*	
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*Complete only if applicable.

Postal address		Former postal address*	
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*Complete only if applicable.

Date of change

Day		Month		Year	
-----	--	-------	--	------	--

Set out below are the names and residential and postal addresses of every person who is a director of the company from the date of this notice.

Full legal name*	Residential address and postal address

*Please give first name(s) followed by surname in BLOCK letters.

Signature of director/
authorised person: Date:

Full legal name of director/authorised person:

[This form cannot be signed by a resigned director.]

Completed by		Email* <i>*Optional</i>	
Address		Telephone	
		Facsimile* <i>*Optional</i>	

Form 10
 Annual return
 Section 124, Companies Act 2006

[If there is insufficient space on the form to supply the information required, attach a separate sheet containing the information set out in the prescribed format.]

Company name	Company number
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Place a tick✓ in the appropriate box

Private company	Public company
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Address for communication	Current address	Updated address
<i>[This is the postal address to which communications from the Registrar will usually be sent.]</i>		

Address of Registered office	Current address	Updated address
<i>[This address must be a physical address and not a PO Box, or Private Bag address.]</i>		

Postal address	Current address	Updated address

Company directors

Full legal name*	Residential address and postal address

Share parcels	Total number of shares issued
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[Please give in the table below the names and addresses of, and the number of shares held by, the persons holding the 10 largest numbers of shares.]

<i>[Please tick the box if the company has more than 10 share parcels.]</i>

Number of shares in share parcel	Full legal name(s) of Shareholders(s)	Address(es) of Shareholder(s)*

**If the shareholder is a natural person, please give a residential address. If the shareholder is a body corporate, please give the address of its registered office or, if it does not have a registered office, the address of its principal place of business.*

[Note: If the trustees of a trust (for example, a family trust) are not incorporated under any Act, the names of all the trustees must be shown and the shares recorded as being jointly held by them.]

Auditor*

Full legal name of auditor	Address of auditor	Date of appointment

**To be completed if applicable.*

Important information

Under section 131 of the Act a company must have an auditor in respect of an accounting period if—

- it is registered as a public company at any time during that accounting period; or
- the company's rules require it to appoint an auditor in respect of that accounting period; or
- a shareholder or shareholders holding shares that together carry the right to receive more than 20% of distributions made by the company give written notice to the company before the end of the accounting period requiring the financial statements of the company for that period to be audited.

Date of annual return

[This is the date within the month that your return is due to be filed.]

Day		Month		Year	
-----	--	-------	--	------	--

Authorised signature I certify that the particulars contained in this annual return are correct.

Signature of director/
authorised person: Date:

Full legal name of director/authorised person:

Details of person filing this return

Completed by		Email* <i>*Optional</i>	
Address		Telephone	
		Facsimile* <i>*Optional</i>	

Form 11

Certificate of execution of instrument creating charge or acquisition of property subject to charge, and details of charge
Schedule 7, Companies Act 2006

[If there is insufficient space on the form to supply the information required, attach a separate sheet containing the information set out in the prescribed format.]

Company name	Company number
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I [name] certify that [name] Limited did on [date] execute an instrument creating a charge, details of which are described below. Annexed and marked with the letter "A" is a true copy of the instrument.*

**[Note: A copy of the charge must be attached in all cases except where the charge has been registered under an Act.]*

Act under which registered	
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Details of charge

Date of creation of charge (or date of acquisition of property subject to the charge):	
Amount secured by the charge:	
Brief details of the property charged:	
Names of persons entitled to the charge:	

Date of registration

Day		Month		Year	
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