



ANALYSIS

Title 1. Short Title and commencement 2. Amendments consequential on Niue Constitution Act	3. Repeals and revocations con- sequential on Niue Constitution Act Schedules
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 1974, No. 43

An Act to amend the Niue Act 1966
[29 August 1974]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title and commencement—(1) This Act may be cited as the Niue Amendment Act 1974, and shall be read together with and deemed part of the Niue Act 1966 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the date of the commencement of the Niue Constitution Act 1974.

2. Amendments consequential on Niue Constitution Act—(1) The enactments specified in the First Schedule to this Act are hereby amended in the manner indicated in that Schedule.

(2) Every reference in any enactment not specified in the First Schedule to this Act, or in any agreement, deed, instrument, application, licence, notice, or other document whatsoever, shall, after the commencement of this Act, be read—

(a) In the case of a reference to the Executive Committee of Niue, as a reference to the Cabinet of Ministers of Niue:

(b) In the case of a reference to the Leader of Government, as a reference to the Premier of Niue:

- (c) In the case of a reference to the Resident Commissioner of Niue, as a reference to the Cabinet of Ministers of Niue:
- (d) In the case of a reference to the Niue Island Assembly or to the Island Assembly (except in the definition of the term "Ordinance" in section 2 of the principal Act), as a reference to the Niue Assembly:
- (e) In the case of a reference to an Ordinance (except in the definition of that term in section 2 of the principal Act), as a reference to an Act of the Niue Assembly:
- (f) In the case of a reference to the Niue Assembly Account, as a reference to the Niue Government Account:
- (g) In the case of a reference to the Chief Judge of the High Court, as a reference to the Chief Justice of that Court:
- (h) In the case of a reference to the New Zealand State Services Commission, being a reference in relation to the Niue Public Service, as a reference to the Niue Public Service Commission.

3. Repeals and revocations consequential on Niue Constitution Act—(1) The enactments specified in the Second Schedule to this Act are hereby repealed.

(2) The regulations, rules, and orders specified in the Third Schedule to this Act are hereby revoked.

SCHEDULES

FIRST SCHEDULE

Section 2 (1)

PART I

AMENDMENTS OF PRINCIPAL ACT

Section Amended	Amendment
Section 2	<p>By inserting, before the definition of the term "aerodrome", the following definition: " 'Act' means an Act of the Niue Assembly: ".</p> <p>By inserting, after the definition of the term "Attorney-General", the following definition: " 'Cabinet' means the Cabinet of Ministers of Niue established by Article 2 of the Constitution: ".</p> <p>By repealing the definition of the term "Commission".</p> <p>By inserting, after the definition of the term "constable", the following definition: " 'The Constitution' means the Constitution of Niue, as set out in the Niuean language in the First Schedule to the Niue Constitution Act 1974 and in the English language in the Second Schedule to that Act: ".</p> <p>By repealing the definition of the term "enactment" (as substituted by section 4 (2) of the Niue Amendment Act 1971), and substituting the following definition: " 'Enactment' has the same meaning as in Article 82 (1) of the Constitution: ".</p> <p>By repealing the definition of the term "Executive Committee" (as inserted by section 4 (1) of the Niue Amendment Act 1971).</p> <p>By repealing the definition of the term "Island Assembly" (as substituted by section 5 (1) of the Niue Amendment Act 1973).</p> <p>By repealing the definition of the term "Leader of Government" (as inserted by section 4 (1) of the Niue Amendment Act 1971).</p>

FIRST SCHEDULE—*continued*PART I—*continued*AMENDMENTS OF PRINCIPAL ACT—*continued*

Section Amended	Amendment
Section 2— <i>continued</i>	<p>By inserting after the definition of the term “New Zealand”, the following definition: “‘Niue Assembly’ or ‘Assembly’ means the Niue Assembly established by Article 16 of the Constitution:”.</p> <p>By repealing the definition of the term “Niue Public Service”, and substituting the following definitions: “‘Niue Public Service’ has the same meaning as in Article 82 (1) of the Constitution: “‘Niue Public Service Commission’ or ‘Commission’ means the Niue Public Service Commission established by Article 82 (1) of the Constitution:”.</p> <p>By inserting, after the definition of the term “prescribed”, the following definition: “‘Premier’ has the same meaning as in Article 82 (1) of the Constitution:”.</p> <p>By repealing the definition of the term “Resident Commissioner” (as substituted by section 4 (2) of the Niue Amendment Act 1971).</p>
Section 4 and sections 5 to 14 ^D (as enacted by section 3 of the Niue Amendment Act 1971)	By repealing these sections.
Section 15	By repealing this section.
Section 18	By omitting from subsection (3) the words “the Resident Commissioner, or, where any Ordinance so provides, the Executive Committee”, and substituting the words “the Cabinet”.
Section 20	By repealing this section.
Section 25	By omitting from subsection (1) and also from subsection (3) the words “Resident Commissioner” wherever they occur, and substituting in each case the word “Premier”.
Section 28	By omitting from subsection (2) the words “Resident Commissioner”, and substituting the word “Premier”.

FIRST SCHEDULE—*continued*
PART I—*continued*
AMENDMENTS OF PRINCIPAL ACT—*continued*

Section Amended	Amendment
Section 30 (as substituted by section 5 of the Niue Amendment Act 1971)	By repealing this section.
Sections 31, 31A (as inserted by section 3 of the Niue Amendment Act 1973), 32, 33, 34 (as substituted by section 4 of the Niue Amendment Act 1973), 35, 36 (as substituted by section 9 of the Niue Amendment Act 1971), 37 to 40, 41 (as substituted by section 10 (1) of the Niue Amendment Act 1971), 42 to 44, and 47	By repealing these sections.
Section 48	By omitting from subsection (1) the words "Subject to the provisions of any Ordinance in that behalf, all Ordinances, regulations, Orders in Council, Proclamations, warrants, appointments, and other instruments and Acts", and substituting the words "Subject to the provisions of any Act in that behalf, all enactments (other than Acts of the Niue Assembly), warrants, appointments, and other instruments".
	By omitting from subsection (2) the words "Subject to the provisions of any Ordinance in that behalf, all Ordinances and regulations", and substituting the words "Subject to the provisions of any Act in that behalf, all regulations".
Section 49	By repealing this section.
Section 52	By inserting in subsection (1) after the word "Act" whenever it occurs (except where it last occurs), the words "of the Parliament of New Zealand".
	By repealing subsection (2), and substituting the following subsection: “(2) No bylaw made by a village Council under this section shall become law until it has been assented to by the Cabinet”.

FIRST SCHEDULE—*continued*
PART I—*continued*
AMENDMENTS OF PRINCIPAL ACT—*continued*

Section Amended	Amendment
Sections 53 to 61 ..	By repealing these sections.
Section 66	By repealing this section.
Section 70	By repealing this section, and substituting the following section: "70. Rules of Court —The practice and procedure of the High Court, whether in its civil or criminal jurisdiction, shall be as prescribed by enactment."
Section 78	By repealing subsection (1) (f).
Section 83	By repealing this section, and substituting the following section: "83. Court fees —The scale of costs and Court fees to be paid in all civil or criminal proceedings in the High Court shall be as prescribed by enactment."
Section 109	By omitting from subsection (1) and also from subsections (2), (5), (6), (7), and (8) the words "Supreme Court" wherever they occur, and substituting in each case the words "Court of Appeal". By repealing subsection (3). By omitting from subsection (4) the words "Supreme Court at Auckland", and substituting the words "Court of Appeal"
Sections 111 and 112	By repealing these sections.
Section 113	By omitting the words "On the sealing of the order granting leave to appeal", and substituting the words "Where an appeal is made to the Court of Appeal of New Zealand, pursuant to Article 51 of the Constitution, against a final judgment of the High Court,". By omitting the words "Supreme Court", "New Zealand at Auckland", and substituting the words "Court of Appeal".
Section 114	By omitting the words "Supreme Court", and substituting the words "Court of Appeal".
Section 115	By omitting the words "the Supreme Court shall, subject to this Act, be determined by regulations made under this Act", and substituting the words "the Court of Appeal shall, subject to this Act, be determined by the rules of the High Court or the Court of Appeal, as the case may be".

FIRST SCHEDULE—*continued*
PART I—*continued*
AMENDMENTS OF PRINCIPAL ACT—*continued*

Section Amended	Amendment
Section 116	By repealing this section.
Section 117 ..	By omitting from subsection (1) and also from subsection (2) the words "Supreme Court" wherever they occur, and substituting in each case the words "Court of Appeal".
Section 118 ...	By omitting the words "Supreme Court" wherever they occur, and substituting in each case the words "Court of Appeal".
Section 119 ..	By omitting the words "Supreme Court" wherever they occur, and substituting in each case the words "Court of Appeal".
Section 120	By omitting from subsection (1) the words "When leave to appeal to the Supreme Court of New Zealand from any conviction is granted by the High Court", and substituting the words "When an appeal is made to the Court of Appeal of New Zealand from any conviction in the High Court".
Section 121 ..	By omitting the words "Supreme Court" wherever they occur, and substituting in each case the words "Court of Appeal".
Section 122 ...	By omitting the words "Supreme Court" where they occur for the first and third times, and substituting in each case the words "Court of Appeal".
Section 123	By omitting the words "Supreme Court" wherever they occur, and substituting in each case the words "Court of Appeal".
Section 124 ...	By repealing this section.
Section 125 ..	By omitting the words "save by way of appeal in accordance with the provisions of this Act in that behalf".
Section 229 ...	By inserting in subsection (4), after the words "other Act", the words "of the Parliament of New Zealand that extends to Niue".
Section 243 ...	By omitting from subsection (1) the words "under the hand of the Resident Commissioner", and substituting the words "of the Cabinet".
Section 244	By omitting from subsection (1) (b) (ii) and also from subsections (3) and (6) the words "Resident Commissioner", and substituting in each case the word "Premier".

FIRST SCHEDULE—*continued*PART I—*continued*AMENDMENTS OF PRINCIPAL ACT—*continued*

Section Amended	Amendment
Section 244A (as inserted by section 3 (1) of the Niue Amendment Act 1968)	<p>By omitting from subsection (1) the words “the Minister of Justice, on the application of the Resident Commissioner and with the concurrence of the Minister of Island Affairs”, and substituting the words “the Cabinet”.</p> <p>By omitting from subsection (1) the words “signed by him”.</p> <p>By omitting from subsection (3) the words “the Minister of Justice and the Minister of Island Affairs think fit”, and substituting the words “the Cabinet thinks fit”.</p>
Section 247	By omitting the words “the Resident Commissioner or”.
Section 264	<p>By omitting from subsection (2) the word “Governor-General” wherever it occurs, and substituting in each case the word “Cabinet”.</p> <p>By omitting from subsection (2) the words “he thinks”, and substituting the words “the Cabinet thinks”.</p>
Section 280	By omitting from subsection (1) the words “Resident Commissioner”, and substituting the word “Premier”.
Section 283	By omitting the word “Attorney-General”, and substituting the word “Cabinet”.
Section 285	By omitting from subsection (1) the words “Supreme Court” wherever they occur, and substituting in each case the words “Court of Appeal”.
Section 286	<p>By omitting from subsection (2) and also from subsection (3) the words “Resident Commissioner with the concurrence of the Executive Committee of Niue”, and substituting in each case the word “Cabinet”.</p> <p>By omitting from subsection (4) the words “Resident Commissioner, with such concurrence as aforesaid”, and substituting the word “Cabinet”.</p> <p>By omitting from subsection (4) the words “or the Resident Commissioner, as the case may be” wherever they occur, and</p>

FIRST SCHEDULE—*continued*PART I—*continued*AMENDMENTS OF PRINCIPAL ACT—*continued*

Section Amended	Amendment
Section 286— <i>continued</i>	substituting in each case the words “or the Cabinet, as the case may be”.
Section 296	By omitting from subsection (4) the words “by the Resident Commissioner”, and substituting the words “by the Premier”.
Section 296	By inserting after the words “all Acts”, the words “of the Niue Assembly or of the Parliament of New Zealand”.
Section 321	By omitting from subsection (1) (d) the words “the Resident Commissioner of Niue and”.
Section 321	By omitting from subsection (1) (d) the words “other Commissioner”, and substituting the word “Commissioner”.
Section 322	By repealing this section.
Section 461	By omitting from subsection (2) the words “his powers”, and substituting the words “the Cabinet’s powers”.
Section 462	By omitting from subsection (2) (a) and also from subsections (3) and (5) the words “he thinks”, and substituting in each case the words “the Cabinet thinks”.
Section 462	By omitting from subsection (4) (as substituted by section 10 (1) of the Niue Amendment Act 1970) the words “as if he were”, and substituting the words “as if the Cabinet were”.
Section 462	By omitting from subsection (6) the words “he considers”, and substituting the words “the Cabinet considers”.
Section 462	By omitting from subsection (7) the words “received by him”, and substituting the words “received by the Cabinet”.
Section 462	By omitting from subsection (8) the words “his share”, and substituting the words “the Cabinet’s share”.
Sections 465 and 467	By repealing these sections.
Section 517	By repealing paragraph (a).
Section 518	By omitting from subsection (1) the words “The Resident Commissioner may, by warrant under his hand and”, and substituting the words “The Cabinet may, under”.

FIRST SCHEDULE—*continued*PART I—*continued*AMENDMENTS OF PRINCIPAL ACT—*continued*

Section Amended	Amendment
Section 518— <i>continued</i>	By omitting from subsection (1) the words “he believes”, and substituting the words “the Cabinet believes”. By repealing subsection (2), and substituting the following subsection: “(2) Any such appointment may be at any time revoked by the Cabinet, by warrant under the Seal of Niue”.
Section 540	By omitting the words “Supreme Court”, and substituting the words “Court of Appeal”.
Section 607	By repealing this section, and substituting the following section: “607. Treatment of person so detained —Provision as to the custody, care, treatment, visitation, and discipline of all persons so committed to medical custody may be made by the Niue Assembly, by Act.”
Section 615	By omitting the words “or before the Resident Commissioner”.
Section 622	By omitting from subsection (2) the word “Minister”, and substituting the word “Cabinet”.
Section 627	By omitting from subsection (2) the words “authorised by him”, and substituting the words “authorised by the Cabinet”.
Section 655	By omitting from subsection (1) the words “the Governor-General may from time to time, by Order in Council”, and substituting the words “the Niue Assembly may from time to time, by Act”.
Section 657	By omitting the words “the Governor-General from time to time by Order in Council”, and substituting the words “the Niue Assembly from time to time, by Act”.
Section 658	By omitting from subsection (1) (a) the words “regulations under this Act”, and substituting the word “Act”.
Section 659	By repealing subsection (3). By repealing the definition of the term “Niue Public Service”.

FIRST SCHEDULE—*continued*PART I—*continued*AMENDMENTS OF PRINCIPAL ACT—*continued*

Section Amended	Amendment
Section 661	<p>By omitting from subsection (1) the words "The Governor-General in Council on the recommendation of the Commission may"; and substituting the words "The Cabinet, on the recommendation of the Commission, may, by notice in the <i>Niue Gazette</i>,".</p> <p>By omitting from subsection (1) and also from subsection (2) the words "the Minister" wherever they occur, and substituting in each case the words "the Cabinet".</p> <p>By omitting from subsection (2) the words "his pleasure", and substituting the words "the pleasure of the Cabinet".</p> <p>By omitting from subsection (3) the words "the Governor-General in Council, on the recommendation of the Minister, may", and substituting the words "The Cabinet, on the recommendation of the Commission, may, by notice in the <i>Niue Gazette</i>,".</p>
Section 663	By repealing this section.
Section 664 (as substituted by section 12 of the Niue Amendment Act 1971)	By repealing this section.
Section 665	<p>By omitting from subsection (1) the word "Governor-General", and substituting the word "Cabinet".</p> <p>By omitting from subsection (4) the words "<i>New Zealand Gazette</i>", and substituting the words "<i>Niue Gazette</i>".</p>
Section 676	<p>By inserting in subsection (1), before the words "When any enactment", the words "Subject to Article 36 of the Constitution".</p> <p>By inserting in subsection (2), after the words "this section", the words "but subject to Article 36 of the Constitution,".</p>
Section 726	<p>By omitting the words "Order in Council", and substituting the word "Act".</p> <p>By omitting the words "that Order", and substituting the words "that Act".</p>

FIRST SCHEDULE—*continued*PART I—*continued*AMENDMENTS OF PRINCIPAL ACT—*continued*

Section Amended	Amendment
Section 727	By omitting the words “Without limiting the power to make regulations confined by section 49 of this Act, regulations may be made under that section providing”, and substituting the words “The Niue Assembly may, by Act, provide”.
Section 728	By repealing subsections (5) and (6), and substituting the following subsections: “(5) The Oath of Allegiance and the Judicial Oath shall be taken, before performing the functions of his Office as a Magistrate, by every person holding office by virtue of which he is a Magistrate within the meaning of section 247 of this Act (being a person appointed to that office after the commencement of this Act but not being a Judge of the Land Court or of the Land Appellate Court). “(6) The oaths to be taken under this section shall be taken before the Chief Justice or any other Judge of the High Court or the Premier.”
First Schedule	By repealing this Schedule.

PART II

AMENDMENTS OF NIUE AMENDMENT ACT (No. 2) 1968

Section Amended	Amendment
Section 2	By omitting from the definition of the term “public purpose” the words “by Parliament or”.
Section 8	By omitting the words “Subject to any regulations which may be made in that behalf, the Minister, or the Resident Commissioner with the consent of the Minister”, and substituting the words “Subject to any enactment, the Cabinet”.

FIRST SCHEDULE—*continued*PART II—*continued*AMENDMENTS OF NIUE AMENDMENT ACT (No. 2) 1968—*continued*

Section Amended	Amendment
Section 9	By omitting from subsection (1) the words "The Minister", and substituting the word "Cabinet".
Section 10	By omitting the words "the Minister", and substituting the words "the Cabinet".
Section 11	By omitting the words "The Minister", and substituting the words "The Cabinet".
Section 12	By omitting from subsection (1) the words "the Minister", and substituting the words "the Cabinet".
Section 14	By omitting from subsection (1) the words "The Minister", and substituting the words "The Cabinet".
Section 16 (as substituted by section 14 of the Niue Amendment Act 1970)	By omitting the words "the Minister or the Resident Commissioner acting with the consent of the Minister", and substituting the words "the Cabinet".
Section 20	By omitting the words "the Minister" wherever they occur, and substituting in each case the words "the Cabinet".
Sections 29 to 37	By repealing these sections.
Section 43	By repealing subsection (1), and substituting the following subsection: “(1) The practice and procedure of the Land Court in all matters within its jurisdiction shall be as prescribed by enactment.”
Section 44	By omitting from subsection (1) the words "authorised by him", and substituting the words "authorised by the Cabinet".
Section 48	By omitting the words "the Governor-General", and substituting the words "the Cabinet".
Sections 67 and 68	By repealing these sections.
Section 73	By omitting from subsection (1) the words "The Governor-General may from time to time, by Order in Council," and substituting the words "The Niue Assembly may from time to time, by Act,".
Section 86	By omitting the words "the Resident Commissioner, acting by and with the advice of the Executive Committee", and substituting the words "the Cabinet".

FIRST SCHEDULE—*continued*PART II—*continued*AMENDMENTS OF NIUE AMENDMENT ACT (No. 2) 1968—*continued*

Section Amended	Amendment
Section 87	By omitting from subsection (1) the words "The Resident Commissioner, acting by and with the advice of the Executive Committee", and substituting the words "The Cabinet".
Section 90	By omitting from subsection (1) the words "The Resident Commissioner, acting by and with the advice of the Executive Committee", and substituting the words "The Cabinet".
Section 100	By omitting from subsection (3) the word "Attorney-General", and substituting the word "Cabinet".
Section 104	By repealing this section.

PART III

AMENDMENTS OF NIUE AMENDMENT ACT 1971

Section Amended	Amendment
Section 14	By omitting from subsection (1) and also from subsection (2) the words "the Resident Commissioner", and substituting in each case the words "the Cabinet". By omitting from subsection (3) and also from subsection (4) the words "he considers", and substituting in each case the words "the Cabinet considers".

SECOND SCHEDULE

Section 3 (1)

ENACTMENTS REPEALED

- 1967, No. 13—The Lesotho Act 1967: section 3 (2).
 1967, No. 14—The Republic of Botswana Act 1967: section 3 (2).
 1967, No. 151—The Carriage by Air Act 1967: section 3 (3).
 1968, No. 14—The Maori and Island Affairs Act 1968: so much of the Schedule as relates to section 659 of the principal Act.
 1968, No. 47—The Swaziland Act 1968: section 3 (2).
 1970, No. 5—The Republic of Guyana Act 1970: section 3 (2).
 1970, No. 6—The Republic of The Gambia Act 1970: section 3 (2).
 1970, No. 15—The Niue Amendment Act 1970: sections 4, 6, and 11.
 1970, No. 16—The Tonga Act 1970: section 3 (2).
 1971, No. 11—The Consular Privileges and Immunities Act 1971: section 12 (4).
 1971, No. 30—The Republic of Sierra Leone Act 1971: section 3 (2).
 1971, No. 143—The Niue Amendment Act 1971: Part I and sections 16, 19, 20, 26 (k), and 29.
 1972, No. 13—The Republic of Bangladesh Act 1972: section 5 (2).
 1973, No. 14—The Republic of Sri Lanka Act 1972: section 3 (2).
 1973, No. 10—The Niue Amendment Act 1973.

THIRD SCHEDULE

Section 3 (2)

REGULATIONS, RULES, AND ORDERS REVOKED

- The Diplomatic Immunities (Western Samoa Trade and Development Commissioner) Order 1967: clause 5 (S.R. 1967/110).
 The Niue Land Court Rules 1969: rule 50 (S.R. 1969/126).
 The Niue Reserved Enactments Order 1969 (S.R. 1969/127).
 The Consular Immunities Regulations 1969: regulation 5 (S.R. 1969/136).
 The Niue Reserved Enactments Order (No. 2) 1969 (S.R. 1969/206).
 The Niue Audit Regulations 1970: regulation 18 (S.R. 1970/103).
 The Niue Dental Regulations 1970: regulation 5 (S.R. 1970/104).
 The Niue Reserved Enactments Order 1970 (S.R. 1970/161).
 The Niue Airport Charges Regulations 1971: regulation 13 (S.R. 1971/203).
 The Niue Civil List Regulations 1972: regulation 11 (S.R. 1972/218).

This Act is administered in the Department of Maori and Island Affairs.
