



WATER REGULATIONS 2017

No. 2017/01

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Schedule 1

Information required for application for construction, alteration, or maintenance of bore

Schedule 2

Application for extraction licence

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Extraction licence

Schedule 4

Application for water pollution control licence

Schedule 5

Water pollution control licence

Pursuant to sections 11, and 66 of the Water Act 2012, Cabinet makes the following regulations –

- 1 Title
These regulations are the Water Regulations 2017.

2 Commencement

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

3 Interpretation

(1) In these regulations, unless the context otherwise requires,—

Act means the Water Act 2012.

Department means the Public Works Department or the Environment Department.

Extraction licence means a licence to extract and use water that is issued for the purposes of Division 3 of Part 4 of the Act.

NCT means Niue consumption tax.

Water pollution control licence means a licence to carry out scheduled activities at specified locations or premises that is issued for the purposes of Division 1 of Part 5 of the Act.

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

Bores

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

(1) An application for the construction, alteration, or maintenance of a bore must—

(a) be in a form provided by the Public Works Director and contain the information specified in Schedule 1; and

(b) be accompanied by the application fee of \$300.

(2) The applicant must pay all the reasonable costs of the Public Works Director in relation to the application.

Extraction licences

5 Application for extraction licence and form of licence

(1) An application for an extraction licence must—

(a) be in a form provided by the Public Works Director and contain the information specified in Schedule 2; and

(b) be accompanied by the application fee of \$300.

(2) The applicant must pay all the reasonable costs of the Public Works Director in relation to the application, including the costs of providing a connection to the main public water supply and providing and connecting any water meter.

(3) An extraction licence must be in a form provided by the Public Works Director and contain the information specified in Schedule 3.

6 Renewal of extraction licence

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

7 General condition

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

Water pollution control licences

8 Application for water pollution control licences

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

9 Renewal of water pollution control licence

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

Schedule 1
Information required for application for construction, alteration, or
maintenance of bore

Water Act 2012

Application to construct, alter or repair a bore

1. Applicant

1.1 Name of applicant

The name shown must be for an individual (or individuals), a company, a body corporate or public authority, but not a partnership or joint-venture name.

1.2 Postal address of applicant

Provide a postal address and fax number for all correspondence.

1.3 Contact person for application for Public Works Director inquiries

Provide—

1.3.1 Mr/Mrs/Ms Given name:

1.3.2 Organisation (if different from licence holder)

1.3.3 Position

1.3.4 Address

1.3.5 Phone number (business/mobile/after hours/pager)

1.3.6 Fax and email contacts

2. Bore site

2.1 Land ownership

2.1.1 Is your application made as the owner of the land?

2.1.2 Is your application made as the lawful occupier of the land?

If you answer yes to 2.1.2, attach documentary evidence of lawful occupation.

2.2 Location of bore

Attach a map showing the location and layout of the whole of the property on which the bore will be located, and the exact position of the proposed bore on the property, including distances from the property boundaries, and provide the following details of the location of the property.

●R

If the property does not have a street address or little reference, provide a description of the location.

2.3 Proximity to other bores

Specify the distance from the closest bores in all directions, and the purpose of those bores.

2.4 Proximity to potential pollutants

Is the proposed bore within any protection zone under the Water (Wellhead Protection) Regulations 2016? For instance, is it within 50 metres of any dwelling septic, hydroponic farms, swimming pools, any burial without a permit (as described under the Niue Building Code), and weed control spraying with chemicals on crop farms? If yes, indicate the type and distance in each case.

3. Other consents

3.1 Has a water extraction licence been granted under the Water Act 2012 to extract and use water from the proposed bore?

3.2 If yes, provide the water extraction licence number.

3.3 Does the activity you intend to undertake require a water pollution control licence under the Water Act 2012?

3.4 If yes, has the water pollution control licence been granted?

4. Bore details

4.1 Type of application

4.1.1 Are you applying for a new bore to be constructed?

4.1.2 Are you applying for an existing bore to be altered or repaired?

4.2 Type of bore

4.2.1 The type of proposed bore (eg, bore, well excavation)

4.2.2 Proposed depth of the bore (in metres from land surface)

4.2.3 Preferred construction (if known)

4.3 Purpose of bore and proposed extraction rate

4.3.1 Specify the purpose of the bore (briefly)

4.3.2 Specify the proposed extraction rate (in litres per second)

5. Supporting documentation

Provide details of documentation included with this application.

6. Volume of extraction

What is the volume of extraction (daily/weekly/monthly/annually)?

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7. **Method of extraction**
What technology expected to be used for this, for example, windmill, solar powered, or diesel powered, or electricity?
8. **Storage (reservoirs) and reticulation**
Provide details of this.
9. **EIA checklist**
Provide details of surrounding vegetation, soil types, agricultural activities (including threats such as pesticide use), and residential dwellings.
10. **Intended use for water extraction**
Provide details (for example, if the water is intended to be used for bottling or general use).
11. **Number of people expected to use the bore**
Provide details of this.
12. **Selection of method of sinking of the bore**
Provide details, including the drilling technology to be used.
13. **Signature of applicant**
This application may only be signed by a person or persons with legal authority to sign it. The various ways in which the application may be signed, and the people who may sign the application, are set out in categories below.

| If the applicant is: | The application must be signed and certified by one of the following: |
|---|---|
| an individual | the individual |
| a company | the common seal being affixed, or 2 directors, or a director and company secretary, or if a proprietary company that has a sole director who is also the sole company secretary - by that director |
| a public authority other than a council | the director of the public authority |
| | |

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| a Village Council | Village Council Chairperson |
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Notes

Monitoring of water quality, etc

A licence holder's operation is subject to inspections and monitoring under the Water Act 2012 and the Public Health Act 1965, for example, water quality monitoring in any locations for any related water assets, bores, or facilities at any reasonable time.

Bore construction and decommissioning standards

The Public Works Department standard for every bore constructed, altered, deepened or enlarged requires that the bore must –

- (a) be properly cased to the satisfaction of the Public Works Director with uPVC or other materials specified by the Public Works Director, provided that the Public Works Director will not specify galvanised wrought iron or alkathene; and
- (b) be surrounded by, and the casing affixed to, a concrete platform constructed to the satisfaction of the Public Works Director; and
- (c) have the wellhead and any other devices or equipment connected to it, securely encased in a lockable weather-proof and stock-proof shed or covering, constructed and maintained to the satisfaction of the Public Works Director.

It is a condition of every approval to construct, alter, or maintain a bore that the approval holder, to the satisfaction of the Public Works Director, must –

- (a) erect and maintain a stock-proof fence to surround the bore at a distance from it of at least 10 metres in each direction (20x20metres, 400 total sq. metres); and
- (b) keep the area within the fence free from weeds or over tree growth or any obstruction, and be cleaned at least a 1 metres outside the fence; and
- (c) prohibit access by any person to the area enclosed by any such fence except for the purpose of carrying out any work required by the preceding paragraph or for the purpose of doing any act or activity required or authorised to be done by the Act or its regulations; and
- (d) install a water tap at the base of the water bore for the purposes or water quality testing or any other purposes for water management.

The Public Works Director is required to ensure that all bores that are no longer in use are sealed with concrete in such a manner that no foreign bodies may enter the bore. A highly visible notice shall be erected beside the bore to notify public of any bore closure.

For all bores other than public water supply bores, the costs associated with construction, alteration, maintenance, or decommissioning of the bore or the compliance with any conditions of approval are borne by the occupier, lessee, or licensee.

Restrictions on the location of bores for extracting water

Unless the Public Works Director, Environment Director, and Health Director agree otherwise, no bore for the extraction of water is permitted to be constructed, deepened, enlarged, or altered and no extraction licence is to be issued for extraction of water from any such bore that—

- (a) is situated within 2000 metres from the coastal high water mark; or
- (b) is closer than 500 metres to any existing bore; or
- (c) is closer than 50 metres (the wellhead protection zone) to any septic tank, livestock, waste disposal sites, swimming pools, hydroponic farms and plantations or those activities described by the Water (Wellhead Protection) Regulation 2016 and Schedule 2 of the Water Act 2012.

Schedule 2
Application for extraction licence

Water Act 2012

Application for extraction licence

1. Licence applicant

1.1 Name of the proposed licence holder(s)

The name shown must be for an individual (or individuals), a company, a body corporate or public authority, but not a partnership or joint-venture name.

1.2 Postal address of the proposed licence holder(s)

Postal address and fax number for all correspondence

1.3 Fit and proper person

1.3.1 Has the applicant (whether a natural person or a corporation, or any director of a corporation) ever been convicted of an offence against the Public Health Act 1965, the Environment Act 2003, the Water Act 2012, or the Environment Act 2015?

1.3.2 Has the applicant had a licence or other authority suspended or revoked under any of those Acts?

If you answer 'Yes' to any of the above questions, attach a statement setting out the specific circumstances and why you think those circumstances should not prevent you from holding a licence.

Note also that in determining whether a person is a fit and proper person, the Director of Public Works may consider any or all of the factors listed in this paragraph.

1.4 Previous Licences

Has the applicant ever held an extraction licence under the Water Act 2012 or any consent under the Environment Act 2003 for the premises or operation?

If you answer 'Yes' to this question, attach details of previous licence(s).

1.5 Contact person for proposed new licence holder(s) for Department inquiries

Provide—

1.3.1 Mr/Mrs/Ms Given name:

- 1.3.2 Organisation (if different from licence holder)
- 1.3.3 Position
- 1.3.4 Address
- 1.3.5 Phone number (business/mobile/after hours/pager)
- 1.3.6 Fax and email contacts

2. Requirement for water extraction licence

- 2.1 Does the applicant intend to extract water from any water work or bore, other than a public water supply water work or rainwater capture work?
- 2.2 Does the applicant intend to extract more than 2000m³ per year of water from any public water supply water work?
- 2.3 Does the applicant intend to extract water to use for any of the purposes listed in schedule 1 of the Water Act 2012?
- 2.4 Provide details and/or information of the type of water meters to be installed by the applicant as part of the extraction licensing requirements at the bore base piping or at any part of the water supply system.

3. Other consents

- 3.1 If the applicant intends to extract water from a bore or work other than a public water supply work, has the applicants applied under the Water Act 2012 to have that bore or work constructed?
- 3.2 If yes, has that bore construction been approved?
- 3.3 Does the activity you intend to undertake require a water pollution control licence under the Water Act 2012?
- 3.4 If yes, has the water pollution control licence been granted?
- 3.5 If yes, then provide water pollution control licence number?

4. Extraction location

Attach a map showing the exact location from which the water will be extracted, and provide the following details of the location of the premises.

Premises commonly known as (if applicable).

Address.

OR

If the premises do not have a street address or title reference, provide a description of the location.

5. **Extraction rates**

- 5.1 Proposed maximum annual extraction in m³/weekly.
- 5.2 Proposed maximum daily extraction in m³/weekly.
- 5.3 Details of proposed pump size (if applicable).

6. **Water Use**

6.1 **Location of land where water will be used**

Attach a map showing the location of the premises where the water will be used (if different from paragraph 4), and provide the following details of the location of the premises.

Premises commonly known as (if applicable).
Address.

OR

If the premises do not have a street address or title reference, provide a description of the location.

6.2 **Purposes of use**

Nominate the purpose(s) for which the water will be used (eg, irrigation, food processing, etc)

6.3 **Details of use**

6.3.1 *Water distribution and other water management works* – all uses. Describe the works used for storage and distribution of works on the premises (with attached plans if appropriate).

6.3.2 *Tail water/wastewater management – all uses*
Describe how you intend to manage tail water or wastewater on the premises (attached plans if appropriate)

6.3.3 *Irrigation use*

If for irrigation, specify –

- crop type
- area to be irrigated (ha)
- irrigation system/method.

If for irrigation, specify the agricultural chemicals you intend to apply to the irrigation area:

- chemical
- application method
- application rate.

7. **Supporting documentation**
Provide details of documentation included with this application.
8. **Development consent**
Provide details of any development consent granted or required.
9. **EIA requirements**
Provide details of whether this has been carried out and the results.
This will be taken into consideration as part of the application, but also means that this has already been done.
10. **Water meters**
Provide details of water meters installation requirements completed – the type of water meter to be installed by the applicant.
11. **Signature of propose licence holder**
This application may only be signed by a person or persons with legal authority to sign it. The various ways in which the application may be signed, and the people who may sign the application, are set out in categories below.

| If the proposed licence holder is: | The application must be signed and certified by one of the following: |
|---|---|
| an individual | the individual. |
| a company | the common seal being affixed, ● 2 directors, or a director and a company secretary, or if a proprietary company that has a sole director who is also the sole company secretary – by that director. |
| a public authority other than a council | the director of the public authority. |

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| a Council | Village Council Chairperson |
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Seal (if signing under seal).

Schedule 3

Extraction licence

Water Act 2012

Extraction Licence

1. **Licence Number**
2. **Licence Holder**
Name
Contact Details
3. **Date of Commencement**
4. **Expiry Date**
5. **Authorised purpose**
6. **Authorised location of use**
7. **Authorised extraction works**
Location
Type
8. **Condition**

Schedule 1

NOTE TO LICENCE HOLDER

The licence holder must apply to amend any part of this extraction licence.

Authorised by:

Date:

Affix stamp or seal of Department/ Government

Schedule 4
Application for water pollution control licence

Water Act 2012

Water pollution control licence application

1. Licence applicant

1.1 Name of the proposed licence holder(s)

The name shown must be for an individual (or individuals), a company, a body corporate or public authority, but **not** a partnership or joint-venture name.

1.2 Postal address of the proposed licence holder(s)

Provide a postal address and fax number for all correspondence.

1.3 Fit and proper person

1.3.1 Has the applicant (whether a natural person or a corporation, or any director of a corporation) ever been convicted of an offence against the Public Health Act 1965, the Environment Act 2003, the Water Act 2012, or the Environment Act 2015?

1.3.2 Has the applicant had a licence or other authority suspended or revoked under any of those Acts?

If you answer 'Yes' to any of the above questions, attach a statement setting out the specific circumstances and why you think those circumstances should not prevent you from holding a licence.

Note also that in determining whether a person is a fit and proper person, the Environment Director may consider any or all of the factors listed in this paragraph.

1.4 Previous licences

Has the applicant ever held a water pollution control licence under the Water Act 2012 or any consent under the Environment Act 2003 or the Environment Act 2015 for the premises or operation?

If you answer 'Yes' to this question, attach details of previous licence(s).

1.5 Contact person for proposed new licence holder(s) for Environment Department inquiries

Provide—

1.3.1 Mr/Mrs/Ms Given name:

- 1.3.2 Organisation (if different from licence holder)
- 1.3.3 Position
- 1.3.4 Address
- 1.3.5 Phone number (business/mobile/after hours/pager)
- 1.3.6 Fax and email contacts

2. Location of premises

Attach a map showing the exact location of the premises, and provide the following details of the location of the premises.

Premises commonly known as (if applicable).

Address.

OR

If the premises do not have a street address or title reference, provide a description of the location.

3. Activities conducted at the premises

3.1 Scheduled activities

Write down the short descriptions (listed in Schedule 2 of the Water Act 2012) of all the categories of scheduled activity conducted or proposed to be conducted at the premises.

3.2 Other activities (ancillary activities)

If you have listed a scheduled activity, please provide a short description of any other activities undertaken at the premises. These include activities that fit the description of a scheduled activity, but are below the licensing 'threshold' or are exempted from licensing.

3.3 Intensive animal husbandry

If you have listed a scheduled activity that involves the keeping of livestock in contained area following information must be provided.

Description of intensive animal husbandry (type of animal kept, number of animals kept, and area in which they are kept).

4. Discharge or disposal points

Do any of the activities on the premises discharge pollutions to water or land?

If you answered 'Yes' to this question, attach a map of the premises showing the location of all discharge points for pollutants to water or land and identify each discharge point with a number.

If the discharge is to land for the purpose of irrigation, mark the area of land to which discharge will be applied.

4.1 Discharges or disposal to water or land

Provide details of all discharge points to waters or land, including details of all discharges to areas being used for application of liquid waste, wastewater, effluent or biosolids on, to or into land.

| | Discharge point 1 | Discharge point 2 | Discharge point 3 | Discharge point 4 |
|---|-------------------|-------------------|-------------------|-------------------|
| Label of discharge/ disposal point on map | | | | |
| Description of location of discharge/ disposal point | | | | |
| Description of composition of discharge or disposed material (components and % by weight and volume) | | | | |
| Description of treatment prior to discharge/disposal (if septic or soak hole or other interceptor, provide details of specifications) | | | | |
| Maximum discharge rate (inkl/ day and kl/year), or Maximum volume to be disposed of (in m ³ /day and m ³ /year) | | | | |

Ensure that all discharges to water and land have been included. Attach extra page(s) if more space is needed.

5. Storage or use of fuels, oils, agricultural or other chemicals or pesticides

5.1 Does your activity involve the generation, storage or use of fuel, oils, agricultural or other chemicals or pesticides?

If you answer 'Yes' to this question, the following information must be provided with respect to those potentially polluting substances.

| | Discharge point 1 | Discharge point 2 | Discharge point 3 | Discharge point 4 |
|---|-------------------|-------------------|-------------------|-------------------|
| Potential Pollution type | | | | |
| Potential pollutant use (generation, storage, use) | | | | |
| Volumes of potential pollutants generated, stored, or used (in kl/yr or tonnes/yr) | | | | |
| Details of generation, storage, or use of potential pollutants (Details methods and procedures) | | | | |

6. Supporting documentation

Provide details of documentation included with this application.

7. Signature of proposed licence holder

This application may only be signed by a person or persons with legal authority to sign it. The various ways in which the application may be signed, and the people who may sign the application, are set out in categories below.

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| If the proposed licence holder is: | | The application must be signed and certified by one of the following: |
|---|---|---|
| an individual a company | <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> | the individual the common seal being affixed, or two directors, or 2 directors, or a director and a company secretary, or if a proprietary company that has a sole director who is also the sole company secretary - by that director |
| A public authority other than a council | <input type="checkbox"/> | the director of the public authority |
| A Village Council | <input type="checkbox"/> | Village Council Chairperson |

Schedule 5
Water pollution control licence

Water Act 2012

Water Pollution Control Licence

1. Licence Number
2. Licence Holder
Name
Contact Details
3. Date of Commencement
4. Expiry Date
5. Authorised activities
6. Authorised premises
7. Conditions

Schedule 1

NOTE TO LICENCE HOLDER

The licence holder must apply to amend any part of this water extraction licence.

Authorised by:

Date:

Affix stamp or seal of Department/Govt.

Approved by the Cabinet of Ministers at the Cabinet Chambers, Fale Fono,
Alofi, this

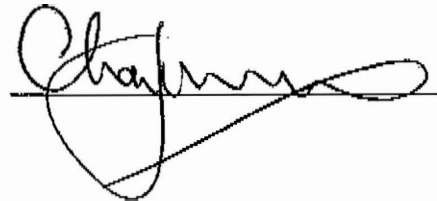
2nd day of FEBRUARY 2017.

Signed by Hon. Pokotoa Ikiua Lalotoa
Sipeli



Acting Premier

Countersigned by Charlene Funaki
Clerk to Cabinet



These regulations are administered by the Public Works Department.

These regulations were made on the 2nd day of FEBRUARY 2017.