
Agriculture Quarantine Act 1984

**NIUE LAWS
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AGRICULTURE QUARANTINE ACT 1984

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To make provision for the protection of plants and animals

1 Short title

This is the Agriculture Quarantine Act 1984.

2 Interpretation

In this Act –

"animal" means any living or dead stage of any member of the animal kingdom and includes the egg or semen or larva or embryo or the carcass of or tissue derived from an animal;

"animal product" means any part of an animal and any product that is wholly or partly derived from an animal or any part of an animal, being a part of an animal or a product that has not been treated or sterilised to the stage where it is rendered free from any viable form of any organism capable of causing disease;

"biological product" means any material, vaccine, chemical, hormone, enzyme, tissue or other thing derived from any animal, plant or organism;

"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 this Act;

"Director" means the Director of Agriculture and includes the Deputy;

"disease" means any unhealthy condition in any animal or plant suspected of being caused by an organism, and includes diseases transmissible from animals to man;

"diseased" means affected or has been affected by any disease, or as a result of diagnostic test or tests, is judged to have been affected by any disease or exposed to the causal agent of any disease; and in relation to any animal product or plant material that it has been derived from a diseased animal or plant;

"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" in relation to any animal or animal product or plant material means that it has been in direct or indirect contact with a diseased animal or plant or any place or vicinity or goods or thing which is suspected to be carrying or harbouring a disease or pest;

"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;

"organism" means any micro-organism, virus, bacterium, fungus, protozoon, parasite or other organism; and includes any dead, inactivated attenuated or genetically modified form of any such micro-organism, bacterium, fungus, protozoon, parasite or other organism;

"Quarantine Officer" means any officer appointed under section 4 and includes an assistant;

"quarantine station" means any area established by section 10(1);

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

"permit" means a document issued by the Director indicating the conditions under which animals, animal products, plant, plant material and goods may be imported;

"pest" means any organism pestilent to animals or plants, and includes weed pests and insect pests;

"plant" means all species, varieties and types of vegetation or parts of them whether living or not and includes stems, branches, tubers, bulbs, culture, corms, stocks, budwood, cuttings, layers, slips, suckers, roots, leaves, flowers, fruit, seeds and any other plant growth and includes a dead plant;

"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;

"port" includes seaport, airport and post office; **"refuse"** means any garbage or waste material, rubbish or packing whether or not of animal or plant origin;

"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;

"treatment" means any form of operation including disinfection and disinfestation to ensure removal sterilisation or killing of any animal or plant, pest or disease by such means as are deemed most appropriate and includes destruction.

3 Act to bind Crown

This Act binds the Government.

PART 1

ADMINISTRATION

4 Appointment of Quarantine Officers

There shall be appointed by the Niue Public Service Commission such Quarantine Officers as may be necessary for the purposes of this Act.

5 Powers of Quarantine Officers

(1) Every Quarantine Officer may for the purposes of this Act detain, open, inspect, examine,

sample, submit for diagnostic examination, direct reshipment, direct removal to a quarantine area, remove for treatment, treat any animal, animal product, plant material, beneficial organism, disease, pest, soil, package, packing material, article of luggage or other thing.

(2) No Quarantine Officer shall direct reshipment or destroy or otherwise dispose of anything under this section unless with the concurrence of the Director and that the owner or the importer is invited to witness destruction.

6 Rights of entry

Every Quarantine Officer may, for the purposes of this Act and on producing (if so required) due evidence of his appointment, enter at any time upon any land dwelling or into any conveyance.

7 Liability for Crown expense

If any person by failing to comply with or acting contrary to this Act, causes a Quarantine Officer or an employee in the Public Service to incur an expense that he would not otherwise have incurred, that person shall reimburse the Government for the full amount of that expense reasonably and properly incurred and that amount shall be recoverable from that person as a debt due to the Crown.

8 Obstructing or hindering Quarantine Officer

Every person commits an offence who directly or indirectly obstructs, hinders, interrupts, threatens, or assaults any Quarantine Officer or any assistant of a Quarantine Officer in the performance of his duty under this Act.

9 Protection of Quarantine Officer

A Quarantine Officer shall not be liable for any loss or damage resulting from the exercise of powers conferred by this Act unless the loss or damage is caused otherwise than in the reasonable exercise of those powers.

PART 2

IMPORTATION

10 Quarantine Stations

(1) The Cabinet may at any port or place in Niue by notice in the Gazette set apart and define any land under its control as a quarantine station for the detention or treatment of animals, animal products, plants or plant material and may vary, alter, redefine or abolish any such quarantine station.

(2) The Director may from time to time give directions on the regulation management and control of quarantine stations and the disposal treatment or destruction of animals, animal products, plants or plant material while in the quarantine station; and may by any such direction specify any treatment that can also include the time during which any animal,

animal product, plant or plant material intended to be introduced into Niue shall remain in a quarantine station.

11 Restrictions on importation

(1) No person shall import or introduce any animal, animal product, plant, plant material or organism or biological product or goods or packing material, into Niue –

(a) Without the written permit of the Director; or

(b) In contravention of any regulations made under this Act.

(2) Every such permit shall be subject to such conditions as may be specified in the permit and in any regulations made under this Act.

(3) Any such permit may be revoked or varied at any time by the Director.

12 Importation for research

Notwithstanding anything in this Act, the Director may, for the purpose of scientific research or experiment and subject to such terms and conditions as he thinks fit, permit the importation into Niue of any animal, animal product, plant or plant material or organism or biological product or goods not otherwise eligible for importation into Niue.

13 Seizure and disposal

Where any animal, animal product, plant or plant material or organism or biological product is found by a Quarantine Officer on any conveyance and the animal, animal product, plant or plant material or organism or biological product is not being imported or introduced into Niue under this Act the animal, animal product, plant or plant material or organism or biological product, shall be deemed to be smuggled; and unless the Director directs that it be retained on the ship or aircraft and reshipped therewith, the animal, animal product, plant or plant material or organism or biological product shall be seized and destroyed and no compensation shall be payable in respect of it.

14 Duty to prevent materials being landed

The owner, charterer, agent, master or captain of any conveyance arriving in Niue shall –

(a) Prevent any animal, animal product, plant or plant material or organism or biological product from being landed from that conveyance unless permitted by the Director; and

(b) If so required by the Director enter into a bond for such amount not exceeding \$1,000 as the Quarantine Officer may require to secure due compliance with this section.

15 Material illegally introduced may be seized

Any animal, animal product, plant or plant material or organism or biological product or

goods introduced into Niue contrary to this Act, may, together with anything else that may have been in contact, be seized by a Quarantine Officer and may be treated as the Director thinks fit.

16 Control of arrivals from overseas

(1) No person arriving in Niue by any conveyance from any country shall leave that conveyance or any wharf or airport to which that conveyance may come without first completing a baggage declaration form regarding any animal, animal product, plant or plant material or organism or biological product or goods which he wishes to bring into Niue.

(2) No person shall remove or cause to be removed from any conveyance arriving in Niue from any country, or from any wharf or airport to which that conveyance may come, any animal, animal products, plant, plant material, or organism or biological product or goods without the permission of a Quarantine Officer.

17 Duty of Officers

It shall be the duty of all officers of the Post Office and of the Customs respectively to assist in carrying out the provisions of section 15 and to prevent the introduction into Niue of anything contrary to this Act, and for that purpose they may, in respect of anything so introduced or attempted to be introduced or brought, exercise all the powers conferred by the Communications Act 1989 in the case of postal articles posted in breach of that Act, and by the Customs Act 1966 in the case of uncustomed or prohibited goods.

PART 3

DISEASE CONTROL

17A Duty to notify disease

It shall be the duty of any owner or person in charge of any animal or plant to notify as soon as practicable a Quarantine Officer, Livestock Officer, or other competent person if he suspects the presence of disease or pests in the animal or plant and if so directed, to hold for examination the carcase of any animal which has died.

17B Power to declare Infected Place

(1) A Quarantine Officer, Livestock Officer or other authorised person may, if he suspects that any animal or plant is diseased or infected, declare the land or premises on which the animal or plant is kept and any other land in the neighbourhood which may be specified to be an Infected Place.

(2) Whilst the declaration of an infected place is in effect, no animal or plant may be introduced and no animal, animal product, animal manure, plant, plant material, fitting, fodder, goods or thing may be removed from that Infected Place except by permission of a Quarantine Officer, Livestock Officer or other authorised person and under such conditions as may be specified.

(3) Any declaration of an infected place may be revoked at any time by a Quarantine Officer,

Livestock Officer or other authorised person; and the force of any such declaration shall in any case, unless sooner renewed lapse 3 months after the date of that declaration.

17C Disease Control Area

(1) Whilst an infected place continues to exist the Director may designate an area around and including the infected place or the whole of Niue, to be a Disease Control Area.

(2) Whilst a Disease Control Area is in effect, the Director may by public notice or radio or television announcement direct that, subject to such conditions he may impose or exemptions he may give, no animal, animal product, animal excreta, plant, plant material, fodder, fittings, goods or other things as may be specified may be moved out of, or into, or within the Disease Control Area without the permission of a Quarantine Officer, Livestock Officer or other authorised person.

17D Powers of Director to destroy

The Director may, with the approval of the Minister of Agriculture cause steps to be taken to destroy any diseased or infected animals or plants or animals or plants suspected of being diseased or infected, for the purposes of eradicating or controlling a disease, or preventing its spread.

18 Emergency powers

(1) Cabinet may declare by proclamation that a state of agriculture emergency exists throughout all or any part or parts of Niue under the Public Emergency Act 1979, and while that state of emergency continues Cabinet may direct that such measures be taken as it or any person authorised by Cabinet may specify as necessary for the purpose of preventing the establishment of the serious disease or pest in Niue or any part of Niue or eradicating it from Niue or any part of Niue.

(2) The Cabinet may pay to the owner of any animal, animal product, plant or plant material or any other goods destroyed as an emergency measure an amount by way of compensation equal to the fair market value of it, fixed as at the time of the inspection that results in the destruction of the animal, animal product, plant, plant material or other goods, such compensation shall be ascertained by arbitration under the Arbitration Act 1908.

19 Diseases and pests in crops for export

(1) If the Quarantine Officer has reason to believe that any disease or pest is present or which contravenes the regulations of the importing country in any animal, animal product, plant, plant material or goods which a person intends to export he may by notice in writing direct that person not to export all or such portion of the animal, animal product, plant or plant material or such portion of the goods as the Quarantine Officer may decide.

(2) Any person who contrary to any such notice exports any animal, animal product, plant, plant material or goods commits an offence.

PART 4

REGULATIONS

20 Regulations

The Cabinet may make regulations for the purpose of carrying out this Act and without in any way limiting the generality of the foregoing –

- (a) Providing for the treatment or seizure and destruction of any animal, animal products, plants, plant material or goods that are diseased or infected or suspected of being diseased or infected;
- (b) Prescribing the powers and duties of Quarantine Officers;
- (c) Providing for the eradication and prevention of the spread of any disease or pests;
- (d) Prohibiting the introduction into Niue either generally or from any specified region, country, or place of origin of all animals, animal products, plants or plant material or organism or biological product or such of the above as may be named or identified as being likely to introduce any disease or pest into Niue;
- (e) Prohibiting or restricting the introduction into Niue of any disease or pest or organism or biological product;
- (f) Prescribing conditions for introducing any animal, animal product, plant or plant material or organism or biological product or goods into Niue either generally or from any specified region, country or place of origin;
- (g) Prescribing the matters for which fees shall be payable under this Act, fixing the amount of those fees and the mode of their payment and recovery;
- (h) Providing for such matters as are contemplated by or are necessary to give full effect to this Act and for its due administration.

PART 5

MISCELLANEOUS

21 Dispatch of animal or plant material to Niue

- (1) No person shall be deemed to have introduced into Niue any animal, animal product, plant or plant material received by that person from overseas without his consent given before dispatch of the animal, animal product, plant or plant material to Niue.
- (2) Notwithstanding that any person receives such animal, animal product, plant or plant material from overseas without his consent given before dispatch of the material, he shall on receipt of the animal, animal product, plant or plant material immediately notify a Quarantine Officer and carry out to the satisfaction of the Quarantine Officer such directions as the

Quarantine Officer may give as to the treatment of the animal, animal product, plant or plant material.

22 False declarations and documents

Every person who makes any false declaration or tenders any false document under this Act knowing the declaration or document to be false commits an offence.

23 Offences

(1) Every person who fails to comply with or act in contravention of this Act or any Regulations made under it or any order, direction, requirement, or condition made, given, or imposed by the Director or Quarantine Officer under any powers conferred by or under this Act or any Regulations commits an offence.

(2) Every person who commits an offence against this Act is liable on conviction to a fine not exceeding 20 penalty units, or imprisonment of not more than 12 months.