

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.

OR

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? For instance, is it within 50 metres of any dwelling septic tanks, 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)?

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
a Village Council	Village Council Chairperson

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 of 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

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 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.

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, 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	the director of the public authority.

a Council	Village	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

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
<u>Label of discharge/disposal point on map</u>				
<u>Description of location of discharge/disposal point</u>				
<u>Description of composition of discharge or disposed material (components and % by weight and volume)</u>				
<u>Description of treatment prior to discharge/disposal (if septic or soak hole or other interceptor, provide details of specifications)</u>				
<u>Maximum discharge rate (inkl/day and kl/year), or Maximum volume to be disposed of (in m³/day and m³/year)</u>				

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.

If the proposed licence holder is:	The application must be signed and certified by one of the following:	
an individual	<input type="checkbox"/>	the individual
a company	<input type="checkbox"/>	the common seal being affixed, or two directors, or
	<input type="checkbox"/>	2 directors, or
	<input type="checkbox"/>	a director and a company secretary, or
	<input type="checkbox"/>	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

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.

ENVIRONMENT (DEVELOPMENT CONSENT AND ENVIRONMENTAL IMPACT ASSESSMENT) REGULATIONS 2017

2017/1 – 29 March 2017

1	Title	11	Decision on application
2	Commencement	12	Conditions of development consent
3	Interpretation		<i>Activities for which development consent always required</i>
4	<i>Applications for development consent</i>	13	Activities for which development consent always required
5	Application for development consent		<i>Activities exempt from requirement for development consent</i>
	Advertising new applications	14	Activities for which development consent not required
			<i>Offences</i>
6	<i>Environmental impact assessment and decisions on applications</i>	15	Offences
7	Initial environmental impact assessment		
8	Decision on application		
9	Matters Director must take into account		
10	Director may consult persons, departments, and others		
	Full environmental impact assessment		

SCHEMES

1 Title

These regulations are the Environment (Development Consent and Environmental Impact Assessment) 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, “Act” means the Environment Act 2015.
- (2) “Department”, “development consent”, “Director”, “environment”, “environmental impact assessment”, “Minister”, and any other 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.

Applications for development consent

4 Application for development consent

- (1) An application for development consent for an activity must be made to the Department.

- (2) An application must —
 - (a) contain the information specified in Schedule 1 (in such detail that corresponds with the scale and significance of the effects that the activity may have on the environment); and
 - (b) be accompanied by a statement, signed by the applicant (or person authorised to sign on behalf of the applicant) to the effect that the information provided is true and correct; and
 - (c) be accompanied by the application fee of \$50.

5 Advertising new applications

(1) The Director must advertise all new applications for development consent seeking any objections to the proposed development.

(2) Public notice of the advertisement is to be made over local radio and local television informing the public of:

- (a) The name of the person seeking development consent;
- (b) The nature of the development; and
- (c) The location of the development as stated in the application.

(3) Any objections shall be in writing and delivered to the Director within 10 working days of the notice being published, or broadcast.

(4) No objection shall be considered if not received within the 10 working days specified in subsection (3).

Environmental impact assessments and decisions on applications

6 Initial environmental impact assessment

(1) The Department must carry out an initial environmental impact assessment for an activity to which an application made in accordance with regulation 4 relates.

(2) The assessment must be based on the information contained in the application. However, the Department may request further information from the applicant if the Director considers on reasonable grounds that the information is incomplete or inadequate for the purposes of making a decision on the application.

(3) The applicant must pay all the reasonable costs of the Department for carrying out the assessment.

7 Decision on application

(1) The Department or the Minister may make any one of the following decisions in relation to an application made in accordance with regulation 4:

- (a) grant development consent for the activity;
- (b) grant development consent subject to one or more specified conditions;
- (c) refuse to grant development consent;
- (d) require the applicant to consult specified persons, or the public generally, before making a decision on the application;
- (e) require a full environmental impact assessment to be carried out.

(2) The Director may, in relation to an application made in accordance with regulation 4, —

- (a) make any one of the decisions specified in paragraph (1)(a) to (d);
- (b) require that a full environmental impact assessment to be carried, in which case a decision on the application must be made by the Department or the Minister in accordance with regulation 10.

(3) The Director must inform the applicant, in writing, of his or her decision.

8 Matters Director must take into account

When making a decision under regulation 6, the Director must take into account—

- (a) the effect of the activity on the water lens; and
- (b) any relevant environmental standard or standards; and
- (c) any relevant general or specific objectives of government policy (for example, any coastal policy or national strategic plan); and
- (d) any relevant reports of other departments or public authorities; and

- (e) if applicable, the results of any consultation required under regulation 6(1)(d); and
- (f) any effect on those in the neighbourhood and, if relevant, the wider community; and
- (g) any physical effect on the locality, including any landscape and visual effects; and
- (h) any effect on ecosystems, including effects on plants or animals and any physical disturbance of habitats in the vicinity; and
- (i) any effect on natural and physical resources having aesthetic, recreational, scientific, historical, spiritual, or cultural, or other special value for present or future generations; and
- (j) any discharge of contaminants into the environment, including any unreasonable emission of noise and options for the treatment and disposal of contaminants; and
- (k) any risk to the neighbourhood, the wider community, or the environment through natural hazards or the use of hazardous substances or hazardous installations; and
- (l) any objections received under regulation 5; and
- (m) any effect on or risk to the national security of Niue or its reputation.

9 Director may consult persons, departments, and others

When making a decision under regulation 6, the Director must consult any person, department or other public authority, or organisation with a legitimate interest in the matter having regard to the activity to which the application relates.

10 Full environmental impact assessment

(1) This regulation applies if a full environmental impact assessment for an activity is required by the Director under regulation 6(1)(e).

(2) The assessment must be carried out—

- (a) by or under the direction of the Director (for example, by one or more employees in the Department); or
- (b) by a person or persons acting with the Director's consent under subsection (3).

(3) For the purposes of paragraph (2)(b), the Director may consent to the assessment being carried out by a person or persons on behalf of the applicant who is or are, in the opinion of the Director, suitably qualified to do so.

(4) The assessment must be a report that—

- (a) summarises the information required for the purposes of the initial assessment, including the principal conclusions of that assessment; and
- (b) sets out any significant controversial issues relating to the activity (for example, if the activity will result in the depletion of a non-renewable resource or interference with an ecosystem containing rare or endangered plants or animals); and
- (c) sets out any issues that remain to be resolved in relation to the activity; and
- (d) includes the technical, scientific, or other information specified by the Director, in writing, to the applicant; and
- (e) includes the results of any consultation that the Director requires the applicant, in writing, to undertake.

(5) The applicant must pay all the reasonable costs of the Department in relation to an assessment carried out under this regulation.

11 Decision on application

(1) The Department or the Minister, when making a decision on whether to grant or refuse development consent for an activity for which a full environmental impact assessment is required, must take into account —

- (a) the matters set out in regulation 7; and
- (b) the views of the Director formed for the purposes of regulation 7 in relation to those matters; and
- (c) if applicable, the results of any consultation required under regulation 9(4)(e).

(2) The Department or the Minister, as the case may be, may do any one of the following in relation the application:

- (a) grant development consent;
- (b) grant development consent subject to one or more specified conditions;
- (c) refuse to grant development consent.

(3) The Director must inform the applicant, in writing, of the decision.

12 Conditions of development consent

(1) For the purposes of regulations 6(1)(b) and 10(2)(b), the decision-maker may impose any conditions on the granting of consent that he or she considers on reasonable grounds are necessary for the protection of the environment.

(2) Without limiting subsection (1), the decision-maker may impose conditions requiring —

- (a) monitoring of an activity, whether —
 - (i) on-going or during a development phase of the activity; or
 - (ii) by the Department or a person acting for the consent holder; or
- (b) the payment of a bond.

(3) Any monitoring costs incurred by the Department are payable by the consent holder.

Activities for which development consent always required

13 Activities for which development consent always required

(1) The activities set out in Schedule 2 are activities for the purposes of section 7(1)(a)(ii) of the Act that must not be started or continued without development consent.

(2) To avoid doubt, nothing in paragraph (1) limits or affects any other environmental standard that prescribes activities as being those that must not be started or continued without development consent.

Activities exempt from requirement for development consent

14 Activities for which development consent not required

(1) The activities set out in Schedule 3 are expressly authorised activities for the purposes of section 10(1)(b) of the Act and development consent is not required to carry on the activity.

(2) To avoid doubt, nothing in paragraph (1) limits or affects any other environmental standard that prescribes an activity or activities as being those that do not require development consent for the carrying out of the activity or activities.

Offences

15 Offences

(1) A person commits an offence if the person provides information for the purposes of being granted a development consent knowing that the information is false or misleading in any material particular.

(2) A person convicted of an offence against paragraph (1) is liable —

- (a) if an individual, to a fine not exceeding 100 penalty units or a term of imprisonment not exceeding 12 months, or both; and
- (b) if a body corporate, to a fine not exceeding 500 penalty units.

Schedule 1

reg 4(2)(a)

Information to be provided in application for development consent

- 1 The name of the applicant.
- 2 The telephone number, address for contact and, if different, address for service of the applicant.
- 3 The particulars, including name and designation, of the contact person for the applicant, if different to the applicant.
- 4 The names and addresses of the owner and occupier of the land to which the application relates (if different to the applicant).
- 5 The location of the activity (described as it is commonly known and in a way that will enable it to be easily identified (for example, the street address, the legal description, the name of any relevant stream, river, or other water body to which the application relates, proximity to any well-known landmark, or its grid reference (if known)).
- 6 A description of the activity.
- 7 A map identifying the site and any area potentially affected by the activity.
- 8 A description of any possible alternative locations or methods for carrying out the activity.
- 9 An assessment of the actual or potential effect on the environment of the activity (whether adverse, positive, direct, or indirect).
- 10 If the activity includes the use of hazardous substances and installations, an assessment of any risks to the environment that are likely to arise from their use.
- 11 If the activity includes the discharge of any contaminant, a description of—
 - (a) the nature of the discharge and the sensitivity of the proposed receiving environment to adverse effects; and
 - (b) any possible alternative methods of discharge, including into any other receiving environment.
- 12 A description of the mitigation measures to be undertaken to help prevent or reduce actual or potential effects (including, if relevant, any safeguards or contingency plans).
- 13 Identification of the persons affected by the proposal (including any individuals or groups that exercise customary rights or traditions at the proposed location of the activity), the consultation undertaken, if any, and any response to the views of those consulted.*

- 14 If the scale or significance of the activity's effects are such that monitoring is required, a description of how those effects would be monitored and by whom.
- 15 Any other information that the Department deems relevant and necessary.

*To avoid doubt, paragraph 13 obliges an applicant to identify the persons affected by the proposal, but does not oblige the applicant to consult with any person or create any ground for expecting that the applicant will consult with any person.

Schedule 2
Activities for which development consent always required

reg 12(1)

Note: Department is checking this list. For example, whether quarantine services should be included.

Food industries

Commercial fruit processing, bottling, and canning
Commercial brewing or distilling
Operation of an abattoir
Commercial food processing requiring packaging
Commercial bottling of water

Non-metallic industries and processes

Lime production
Brick or tile manufacture
Extraction of minerals
Commercial extraction of aggregates, stones, shingle, sand, reef mud, or beach rock
Industries requiring the use of radio-active materials Cement manufacture

Wood industries

Commercial manufacturing of paper, pulp, and any other wood products

Marine produce and products

Commercial fish processing (including sessile marine animals)
Commercial marine food collection, processing, or farming
Commercial fishing in Niuean marine areas

Chemical industries

Fertiliser production or use

Tourism

Operation of a resort, hotel, motel, guesthouse, or other premises for commercial gain
Use of land or buildings, or both, as a golf course
Use of land or buildings, or both, as a recreational park

Agricultural, horticultural, and other land-based industries

Livestock development
Commercial animal schemes
Commercial agricultural development schemes
Commercial horticultural development schemes
Irrigation and water supply schemes
Logging operations
Timber milling or treatment
Removal of primary or secondary forest or primary vegetation
Removal of trees or other natural vegetation in other areas of more than half an acre

Public Works

Landfills
Infrastructure developments
Recycling or collection stations
Soil erosion control activities
Desalination plants
Reservoir developments
Airport developments
Causeways
Drainage or disposal systems
Dredging or quarrying
Mining (whether terrestrial or marine)
Watershed management
Water bore drilling
Wastewater and sanitation schemes
Boat channels
Ports or harbours
Electricity generation stations and facilities
Marinas (pontoons, jetties, piers, dry storage, and moorings) for more than 5 vessels

Activities relating to non-native species and living modified organisms

Importation, development, processing, use, manufacture, propagation and sale
Introduction of non-native species

Village development

Settlement and resettlement projects
Sea track projects
Evacuation centres
Heritage projects and declaration sites

Other

Industrial estates
Multiple-unit housing
Petroleum storage
Human waste disposal systems other than those relating to a private home in a residential area

Schedule 3
Activities for which development consent not required

reg 13(1)

- 1 Construction, maintenance, renovation, or extension of a private home in a residential area.
- 2 Routine maintenance of public infrastructure, including maintenance of roads, tracks, sea tracks, pathways, the airstrip, electricity generators, electricity supply lines, and the water supply network.
- 3 Scrub or bush clearing in relation to a private home, but only if the clearing is no greater than 1 acre (0.405 hectares).
- 4 Scrub or bush clearing in relation to a bush garden, but only if —
 - (a) the total amount of clearing in any 12-month period is less than or equal to 5 acres (2.023 hectares); and
 - (b) either —
 - (i) the land to be cleared is not or is not within a tapu area; or
 - (ii) the land to be cleared is in a tapu area with partial protection and clearing the land will not breach any conditions of its protection.

INCOME TAX (AUTOMATIC EXCHANGE OF INFORMATION) REGULATIONS 2017

2017/2 – 29 March 2017

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SCHEDULE		

Pursuant to section 152(d) of the Income Tax Act 1961, Cabinet makes the following regulations –

1 Title

These regulations are the Income Tax (Automatic Exchange of Information) Regulations 2017.

2 Commencement

(1) 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 Income Tax Act 1961

Court means the High Court of Niue

CRS means the common reporting standard, approved by the Council of the Organisation for Economic Co-operation and Development on 15 July 2014, that contains reporting and due diligence procedures for the exchange of information on an automatic basis; and includes –

- (a) the commentaries on the common reporting standard; and
- (b) amendments to the CRS and its commentaries made from time to time

Department means the Department of Tax

designated officer means an officer of the Department designated to exercise the powers conferred in these regulations

excluded account means—

- (a) an account as defined in Section VIIIC17(a) to (f) of the CRS; or
- (b) an account listed as an excluded account in Schedule 1

Niue representative means a person who resides in Niue and who represents a financial institution that is not resident in Niue for corporate tax or income tax purposes

reporting financial institution means any Niue financial institution that is not a non-reporting financial institution. The term “Niue financial institution” means: (i) any financial institution that is resident in Niue, but excludes any branch of that financial institution that is located outside of Niue; and (ii) any branch of a financial institution that is not resident in Niue, if that branch is located in Niue

participating jurisdiction means a jurisdiction listed in Schedule 2

standardised industry coding system means a coding system used to classify establishments by business type for purposes other than tax purposes

US\$ means United States dollars, the official currency of the United States of America.

- (2) Any term defined in the Act and used, but not defined, in these regulations has the same meaning as in the Act.
- (3) Subject to subsection (4), any term defined in the CRS but not in the Act or these regulations has the same meaning as in the CRS.
- (4) For the purpose of applying the definitions in the CRS to these regulations—
 - (a) the definition of **reportable jurisdiction** in section VIIID4 of the CRS must be read as “The term “Reportable Jurisdiction” means any jurisdiction other than Niue”; and
 - (b) the dates for the purpose of the following definitions in section VIII of the CRS are:
 - (i) paragraph (b) of the definition of **qualified credit card issuer**: 1 July 2017
 - (ii) the definition of **lower value account**: 30 June 2017
 - (iii) the definition of **new account**: 1 July 2017
 - (iv) the definition of **pre-existing account**: 30 June 2017
 - (v) paragraph (f)(ii) of the definition of **excluded account**: 1 July 2017

- (5) For the purposes of these regulations, the definition of **high value account** in section VIII of the CRS must be read as if it read as follows: "The term "High Value Account" means a Preexisting Individual Account with an aggregate balance or value that exceeds USD 1 000 000 as of 30 June 2017, 31 December 2017, or 31 December of any subsequent year".
- (6) In applying the account balance aggregation and currency rules for the purpose of the CRS and these regulations, an account balance that has a negative value is treated as having a balance or value of nil.
- (7) In determining the balance of value of an account denominated in a currency other than US\$ for the purpose of the CRS and these regulations, an institution must translate the relevant US\$ threshold amount described in the CRS or these regulations into the other currency by reference to the spot rate of exchange on the date for which the institution is determining the threshold amounts.
- (8) For the purposes of the CRS and these regulations, a financial account held by an individual as a partner of a partnership is treated as an entity account and not as an individual account.

Part 1
Due diligence

4 Due diligence requirements

- (1) Every reporting financial institution must establish, maintain, and document procedures that are designed to identify reportable accounts.
- (2) When identifying reportable accounts maintained by the institution a reporting financial institution must apply the due diligence procedures described in sections II to VII of the CRS.
- (3) The due diligence procedures must be applied as if the date specified in—
 - (a) section III D of the CRS were 31 December 31 December 2017 in respect of high value accounts and 31 December 2018 in respect of lower value accounts; and
 - (b) section V E(1) of the CRS were 30 June 2017 in the first instance and 31 December 2018 in the second instance.
- (4) For the purposes of these regulations, section III C(6) of the CRS must be read as if it read as follows: "If a Preexisting Individual Account is not a High Value Account as of 30 June 2017, but becomes a High Value Account as of 31 December 2017 or the last day of a subsequent calendar year, the Reporting Financial Institution must complete the enhanced review procedures described in paragraph C with respect to such account within the calendar year following the year in which the account becomes a High Value Account. If based on this review such account is identified as a Reportable Account, the Reporting Financial Institution must report the required information about such account with respect to the year in which it is identified as a Reportable Account and subsequent years on an annual basis, unless the Account Holder ceases to be a Reportable Person".

- (5) For the purposes of these regulations, section V A of the CRS must be read as if it read as follows: "Entity Accounts Not Required to Be Reviewed, Identified or Reported. Unless the Reporting Financial Institution elects otherwise, either with respect to all Preexisting Entity Accounts or, separately, with respect to any clearly identified group of such accounts, a Preexisting Entity Account with an aggregate account balance or value that does not exceed USD 250 000 as of 30 June 2017, is not required to be reviewed, identified, or reported as a Reportable Account until the aggregate account balance or value exceeds USD 250 000 as of 31 December 2017 or the last day of any subsequent calendar year".
- (6) For the purposes of these regulations, section V B of the CRS must be read as if it read as follows: "Entity Accounts Subject to Review. A Preexisting Entity Account that has an aggregate account balance or value that exceeds USD 250 000 as of 30 June 2017, and a Preexisting Entity Account that does not exceed USD 250 000 as of 30 June 2017 but the aggregate account balance or value of which exceeds USD 250 000 as of 31 December 2017 or the last day of any subsequent calendar year, must be reviewed in accordance with the procedures set forth in paragraph D".
- (7) For the purposes of these regulations, section V E(2) of the CRS must be read as if it read as follows: "Review of Preexisting Entity Accounts with an aggregate account balance or value that does not exceed USD 250 000 as of 30 June 2017, but exceeds USD 250 000 as of 31 December 2017 or 31 December of a subsequent year, must be completed within the calendar year following the year in which the aggregate account balance or value exceeds USD 250 000".
- (8) An account is treated as a reportable account beginning on the date it is identified as such under the due diligence procedures described in sections II to VII of the CRS and, unless otherwise provided, information with respect to a reportable account must be reported annually in the calendar year following the year to which the information relates.
- (9) Section VII B of the CRS must be read as if it read as set out in Schedule 3.

5 Modifications to due diligence procedures

- (1) A reporting financial institution may apply, for a calendar year, the residence address procedure, as described in section IIIB(1) of the CRS, to a lower value account.
- (2) A reporting financial institution may apply, for a calendar year, section VA to C of the CRS to determine whether a pre-existing entity account is subject to the due diligence procedures described in section V of the CRS.

- (3) A reporting financial institution may apply, for a calendar year, the due diligence procedures for new accounts (as described in section IV A or VI A of the CRS) to pre-existing accounts and, if it does, the procedures described in the following provisions of the CRS apply to the new account:
 - (a) section III B(1);
 - (b) section 1 C;
 - (c) section III A;
 - (d) section V A.
- (4) However, a reporting financial institution must not apply the due diligence procedures for new accounts to a pre-existing account unless the institution applies the procedures to all pre-existing account it maintains, or to a clearly identifiable group of pre-existing accounts.
- (5) A reporting financial institution may apply, for a calendar year, the due diligence procedures for high value accounts (as described in section III C of the CRS) to low value accounts.
- (6) For a pre-existing entity account, a reporting financial institution may use as documentary evidence any classification in the institution's records with respect to the account holder if—
 - (a) the classification was—
 - (i) determined based on a standardised industry coding system; and
 - (ii) recorded by the institution consistent with its normal business practices for purposes of AML/KYC procedures or another regulatory purpose (other than for tax purposes); and
 - (iii) implemented by the institution before the date used to classify the financial account as a pre-existing account; and
 - (b) the institution does not know or have reason to know that such a classification is incorrect or unreliable.
- (7) With respect to new entity accounts, for the purposes of determining whether a controlling person of a passive NFE is a reportable person, a reporting financial institution may only rely on a self-certification from either the account holder or the controlling person.

Part 2
Reporting and record keeping

Reporting obligations

6 Reporting obligation

(1) For every reportable account maintained by reporting financial institution, the institution must, for the first reporting year and every following calendar year, make a return setting out the information required to be reported under section I A and B of the CRS, but subject to section 1 C to E of the CRS.

(2) The first calendar year for an account identified as a reportable account for the purposes of the CRS is 2016.

(3) The return must be submitted electronically in accordance with regulation 7 on or before 31 May of the year following the calendar year to which the return relates.

(4) For the purposes of the information required to be reported under the CRS,—

- (a) references to the balance or value of an account include a nil balance or value; and
- (b) references to paying an amount include crediting an amount.

7 Electronic return system

An information return, as required to be filed by regulation 6, must be filed electronically using whatever technology is approved or provided by the Department, in whatever form the Department requires.

8 Notification to individual reportable persons

(1) A reporting financial institution must notify each individual reportable person that information relating to that person that is required to be reported under regulation 6 will be reported to the Customs and Revenue Department and may be transferred to the government of another territory in accordance with the relevant agreement.

(2) The notification must be made by 31 January in the calendar year following the first year in which the account held by the individual is a reportable account maintained by the reporting financial institution.

9 Non-resident reporting financial institution's Niue representative

(1) If a reporting financial institution is not resident in Niue, the obligations of the institution under these regulations are to be treated as if they were also the obligations of any Niue representative of the institution.

(2) For the purposes of this regulation,—

- (a) a reporting financial institution that is a partnership is resident in Niue if the control and management of the business of the partnership as a reporting financial institution takes place there or it is subject to financial supervision there; and
- (b) a reporting financial institution that is not a partnership is resident in Niue if it is resident in Niue for corporation tax or income tax purposes and, in the case of a trust, if one or more of the trustees is resident in Niue.

Records

10 Records

- (1) Every reporting financial institution must keep all records that the institution obtains or creates for the purposes of complying with these regulations, including self-certifications and records of documentary evidence.
- (2) If a reporting financial institution that is required by these regulations to keep records does so electronically, the institution must retain them in an electronically readable format for the retention periods specified in subclause (4).
- (3) If a reporting financial institution obtains or creates records, as required by these regulations, in a language other than English, the institution must, upon request, provide an English translation to the Comptroller of Customs.
- (4) Records that are required by these regulations to be kept, obtained, or created by a reporting financial institution must be retained by the institution for at least 7 years following—
 - (a) in the case of self-certification, the last day on which a related financial account is open; and
 - (b) in any other case, the end of the last calendar year in respect of which the record is relevant.

11 Inspection of books, etc and provision of information and assistance

- (1) A designated officer may, by notice in writing, require a financial institution to give the officer, within a period specified in the notice of not less than 14 days, any information (including copies of any books, records, or other documents) that the officer reasonably requires for any purpose relating to the administration or enforcement of these regulations.
- (2) A designated officer may require a financial institution, for the purpose of the administration or enforcement of these regulations, to do all or any of the following:
 - (a) to produce books, records, or other documentation;
 - (b) to provide information, explanations, and particulars;
 - (c) to give all assistance that the officer may reasonably require.

(3) A designated officer may, for the purpose of the administration or enforcement of these regulations, do either or both of the following:

- (a) make extracts from, or copies of, all or any part of the books, records, or other documents or other material made available to the officer;
- (b) require that copies of books, records, or other documents be made available to the officer.

General

12 Confidentiality

(1) Every official must treat information received from a reporting financial institution under these regulations as confidential, and may only disclose as much information as is necessary for the purpose of the administration or enforcement of the Act, these regulations, or any agreement or arrangement entered into by Cabinet for and on behalf of the Government of Niue for the exchange of information that relates to tax (including the automatic exchange of that information) in relation to Niue and any other country or territory.

(2) In subclause (1), official means any person who—

- (a) performs or performed, a duty in the course of administering or enforcing these regulations; or
- (b) is or was employed in the administration or enforcement of these regulations.

(3) A person commits an offence and is liable on summary conviction to a fine not exceeding 6 penalty units or imprisonment for not more than 6 months who breaches subsection (1) by disclosing or divulging any information, or producing any document, relating to the information received from a reporting financial institution under these regulations.

13 Use of service providers

A reporting financial institution may use a service provider to undertake the due diligence requirements under regulations 4 and 5 and the reporting obligations under regulations 6 to 8, but in such cases those obligations continue to be the obligations of the institution.

Part 3
Penalties for breach of obligations

Penalties for breach of obligations

14 Penalties for failure to comply with Regulations

(1) A person who fails to comply with any obligation under these Regulations is liable on summary conviction to a fine not exceeding 5 penalty units or imprisonment for not more than 12 months.

15 Default daily penalty

(1) A person is liable to a further penalty not exceeding 6 penalty units per day for each subsequent day on which a failure continues if—
(a) a penalty under regulation 14 has been assessed; and
(b) the failure in question continues after the person has been notified of the assessment.

16 Penalties for false, inaccurate, or misleading information

(1) A person is liable to a penalty not exceeding 5 penalty units if the person provides inaccurate information, in complying with an obligation under regulation 6 or in connection with such an obligation, and one of the following applies:
(a) the inaccuracy is either deliberate or is due to a failure to comply with the due diligence requirements in regulations 4 or 5;
(b) the person knows of the inaccuracy at the time the information is provided but does not inform the Comptroller of Customs at that time;
(c) the person discovers the inaccuracy some time later and fails to take reasonable steps to inform the Comptroller of Customs.

(2) In this section inaccurate information includes information that is false or misleading.

17 Matters to be disregarded in relation to liability to penalties

(1) Liability to a penalty under regulations 14 to 16 does not arise if the person satisfies the Comptroller of Customs or (on an appeal notified to the High Court of Niue) that there is a reasonable excuse for the failure.

(2) For the purposes of this regulation, neither of the following is a reasonable excuse:
(a) that there is an insufficiency of funds to do something;
(b) that a person relies upon another person to do something.

(3) If a person had a reasonable excuse for a failure but the excuse has ceased, the person is to be treated as having continued to have the excuse if the failure is remedied without unreasonable delay after the excuse ceased.

18 Assessment of penalties

(1) If a person becomes liable to a penalty under any of regulations 14 to 16, the Comptroller of Customs may assess the penalty and, if he or she does so, must notify the person.

(2) An assessment of a penalty under regulation 14 to 16 must be made within the period of 12 months beginning with the date on which the person became liable to the penalty.

(3) As assessment of a penalty under regulation 16 must be made—

- (a) within 12 months after the date on which the inaccuracy first came to the attention of the Comptroller of Customs; and
- (b) within 6 years after the date on which the person became liable to the penalty.

19 **Right to appeal against penalty**
A person may appeal against a penalty assessment—

- (a) on the grounds that liability to a penalty under any of regulations 14 to 16 does not arise; or
- (b) as to the amount of such a penalty.

20 **Procedure on appeal against penalty**
(1) Notice of an appeal under regulation 19 must be given—

- (a) in writing; and
- (b) before the end of the period of 30 days beginning with the date on which notification under regulation 18(1) was given; and
- (c) to the Comptroller of Customs.

(2) The notice must state the grounds of appeal.

(3) On an appeal that is notified to the Comptroller of Customs, the Court may—

- (a) If the appeal is under regulation 19(a), confirm or cancel the assessment; and
- (b) If the appeal is under regulation 19(b), either confirm the assessment or substitute another assessment that the Comptroller of Customs had the power to make.

21 **Increased daily default penalty**
(1) This clause applies if—

- (a) a penalty under regulation 15 is assessed under regulation 18; and
- (b) the failure in respect of which that assessment is made continues for more than 30 days beginning with the date on which notification of that assessment is given; and
- (c) the person has been told that an application may be made under this clause for an increased daily penalty to be imposed.

(2) If this clause applies, the Comptroller of Customs may apply to the Court for an increased daily penalty to be imposed on the person.

(3) If the Court decides that an increased daily penalty should be imposed, then for each applicable day on which the failure continues—

- (a) the person is not liable to a penalty under regulation 15 in respect of the failure; and
- (b) the person is liable instead to a penalty under this clause of an amount determined by the Court.

- (4) The Court may not determine an amount exceeding \$1, 000 for each applicable day.
- (5) If a person becomes liable to a penalty under this clause, the Comptroller of Customs must notify the person.
- (6) The notification must specify the day from which the increased penalty is to apply.
- (7) That day and any subsequent day is an "applicable day" for the purposes of this clause.

22 Enforcement of penalties

- (1) A penalty under these regulations must be paid before the end of the period of 30 days beginning with—
 - (a) the date on which the assessment under regulation 18 or notification under regulation 18(5) is given in respect of the penalty; or
 - (b) if a notice of appeal under regulation 20 is given, the date on which the appeal is finally determined or withdrawn.
- (2) A penalty under these regulations may be enforced as if it were income tax charged in an assessment and due and payable.

Anti-avoidance

23 Regulations have effect despite arrangement

If a person enters into any arrangement that has a main purpose of avoiding any obligation under or in connection with the application of these regulations, the regulations have effect as if the arrangements had not been entered into.

Reg 3(1)

Schedule 1
Excluded accounts

For the purposes of the Standard the following are excluded accounts.

Reg 3(1)

Schedule 2

Participating jurisdictions

Committed Jurisdictions	
Andorra	Japan
Anguilla	Jersey
Antigua and Barbuda	Korea
Argentina	Kuwait
Aruba	Latvia
Australia	Lebanon
Austria	Liechtenstein
Bahamas	Lithuania
Bahrain	Luxembourg
Barbados	Macau (China)
Belgium	Malaysia
Belize	Malta
Bermuda	Marshall Islands
Brazil	Mauritius
British Virgin Islands	Mexico
Brunei Darussalam	Monaco
Bulgaria	Montserrat
Canada	Nauru
Cayman Islands	Netherlands
Chile	New Zealand
China	Niue
Colombia	Norway
Cook Islands	Panama
Costa Rica	Poland
Croatia	Portugal
Curaçao	Qatar
Cyprus	Romania
Czech Republic	Russia
Denmark	Saint Kitts and Nevis
Dominica	Saint Lucia
Estonia	Saint Vincent and the Grenadines
Faroe Islands	Samoa
Finland	San Marino
France	Saudi Arabia

Germany	Seychelles
Ghana	Singapore
Gibraltar	Saint Maarten
Greece	Slovak Republic
Greenland	Slovenia
Grenada	South Africa
Guernsey	Spain
Hong Kong (China)	Sweden
Hungary	Switzerland
Iceland	Trinidad and Tobago
India	Turkey
Indonesia	Turks and Caicos Islands
Ireland	United Arab Emirates
Isle of Man	United Kingdom
Israel	Uruguay
Italy	Vanuatu

Reg 3(7)

Schedule 3
Alternative reading of section VIIB of CRS

Alternative Procedures for Financial Accounts held by Individual Beneficiaries of a Cash Value Insurance Contract or an Annuity Contract and for a Group Cash Value Insurance Contract or Group Annuity Contract. A Reporting Financial Institution may presume that an individual beneficiary (other than the owner) of a Cash Value Insurance Contract or an Annuity Contract receiving a death benefit is not a Reportable person and may treat such Financial Account as other than a Reportable Account unless the Reporting Financial Institution has actual knowledge, or reason to know, that the beneficiary is a Reportable Person. A Reporting Financial Institution has reason to know that a beneficiary of a Cash Value Insurance Contract or an Annuity Contract is Reportable Person if the information collected by the Reporting Financial Institution and associated with the beneficiary contains indicia as described in paragraph B of Section III. If a Reporting Financial Institution has actual knowledge, or reason to know, that the beneficiary is a Reportable Person, the Reporting Financial Institution must follow the procedures in paragraph B of Section III.

A Reporting Financial Institution may treat a Financial Account that is a member's interest in a Group Cash Value Insurance Contract or Group Annuity Contract as a Financial Account that is not a Reportable Account until the date on which an amount is payable to the employee/certificate holder or beneficiary, if the Financial Account that is a member's interest in a Group Cash Value Insurance Contract or Group Annuity Contracts meets the following requirements:

- (a) the Group Cash Value Insurance Contract or Group Annuity Contract is issued to an employer and covers 25 or more employees/certificate holders;
- (b) the employee/certificate holders are entitled to receive any contact value related to their interests and to name beneficiaries for the benefit payable upon the employee's death; and
- (c) the aggregate amount payable to any employee/certificate holder or beneficiary does not exceed an amount denominated in the domestic currency of each Member State that corresponds to USD 1 000 000.

The term "Group Cash Value Insurance Contract" means a Cash Value Insurance Contract that (a) provides coverage on individuals who are affiliated through an employer, trade association, labour union, or other association or group; and (b) charges a premium for each member of the group (or member of a class with the group) that is determined without regard to the individual health characteristics other than age, gender, and smoking habits of the member (or class of members) of the group.

The term "Group Annuity Contract" means an Annuity Contract under which the obligees are individuals who are affiliated through an employer, trade association, labour union, or other association or group.

DEPARTURE TAX REGULATIONS 2017

2017/2 – 1 July 2017

1	Name	4	Exemptions
2	Interpretation	5	Rate of departure tax
3	Entry into force	6	Revocations

1 Name

These are the Departure Tax Regulations 2017.

2 Interpretation

In these Regulations -

"Act" means the Departure Tax Act 1996;

"carrier" means a person who provides passage or international travel for passengers or goods, and includes an agent of the carrier;

"child" means a person who is between 2 and 12 years of age;

"diplomat" means any person who has accredited diplomatic status recognised by the Niue Government pursuant to the Diplomatic Privileges Act 1968;

"infant" means a person under the age of 2 years;

"transit passenger" means a passenger who –

- (i) does not leave the airport or ship; or
- (ii) leaves the airport or vessel only because of an interruption to the journey caused by the unserviceability of the aircraft or vessel, or caused by any delay beyond the control of the passenger or the operator concerned; or
- (iii) stays on Niue solely for the purpose of securing onward travel, to a country other than the country from which the person arrived, and departing Niue within 24 hours of arrival;

3 Entry into force

These regulations enter into force on 1 July 2017.

4 Exemptions

(1) The following persons are exempt from paying departure tax —

- (a) Any member of the crew of a scheduled, military, diplomatic, or licensed commercial aircraft or vessel;
- (b) An infant and child;
- (c) Any diplomatic staff accredited by the Government of Niue;
- (d) A transit passenger.

5 Rate of departure tax

The rate of departure tax payable under section 3 of the Act by all persons departing Niue by aircraft or vessel is NZ\$80.00, unless exempted under regulation 4.

6 Revocations

The Departure Travel Tax Regulations 2007 are revoked.

PENSIONS AND BENEFITS REGULATIONS 2019

4 December 2019

1 Name

These regulations are the Pensions and Benefits Regulations 2019.

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 Pensions and Benefits Act 1991.

(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

RATE OF PENSIONS

4 Rate of Pension

The rate of pension payable under section 4 of the Act is –

- (a) in the case of a person who has attained the age of 60 years to 69 years - \$10,660 a year;
- (b) in the case of a person who has attained the age of 70 years to 79 years - \$10,920 a year;
- (c) any other person - \$11,180 a year.

PART 2

RATE OF WELFARE BENEFIT

5 Rate of welfare benefit

The maximum rate of welfare benefit for the purpose of section 13 of the Act is —

- (a) in the case of a person considered by the Welfare Committee to be a person with a severe disability - \$4,680 a year; and
- (b) in any other case - \$3,900 a year.

6 Revocations

The following regulations are revoked –

- (a) The Pensions and Benefits Regulations 2016.

