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1967

Debt Limitation Ordinance 1967, No.43

ANALYSIS

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DEBT LIMITATION ORDINANCE 1967
1967, No.43

An Ordinance to make better provision for the limitation of
trading debts (1 March 1967).

PART I - PRELIMINARY

1. Short Title and Commencement - (1) This Ordinance may
be cited as the Niue Island Debt Limitation Ordinance 1967.

(2) This Ordinance shall come into force on the twenty-
ninth day of March 1967.

2. Arrangement of Ordinance - This Ordinance is arranged
as follows:

- Part I - Preliminary. (Sections 1 to 4.)
Part II - Supply of Goods on Credit. (Sections
5 to 7.)
Part III - Offences. (Sections 8 and 9.)
Part IV - Miscellaneous Provisions. (Sections
10 to 12.)

[This section has been revised. References to
introductory notes have now been included in the Analysis.]

3. Interpretation - (1) In this Ordinance, unless the
context otherwise requires -

"Chief Officer of Police" means the Chief Officer of
Police of Niue:

"Executive Committee" means the Executive Committee of Niue established by section 9 of the Niue Act 1966:

"Goods" means all kinds of movable personal property including animals:

"High Court" means the High Court of Niue established by section 53 of the Niue Act 1966:

"Supply of goods" means any disposition of goods between trader and consumer for valuable consideration except any such disposition under the Chattels Transfer Act 1924:

"Trader" means any person engaged in any trade, business, industry, occupation or undertaking relating to the retail of goods to the consumer.

(2) Subject to the provisions of subsection (1) of this section, expressions defined in the Niue Act 1966 have the meanings so defined.

4. Chief Officer of Police to administer Ordinance - The Chief Officer of Police shall be charged with the administration of this Ordinance under the general direction and control of the Resident Commissioner.

PART II - SUPPLY OF GOODS ON CREDIT

5. No credit beyond the apparent ability to pay - (1) No trader shall supply to any person goods on credit unless he is satisfied that such person is of sufficient ability to pay for the goods so supplied.

(2) Subject to the provisions of subsection (1) of this section, no trader shall supply to any person on credit goods as specified in the Schedule to this Ordinance without first having obtained by way of deposit such minimum percentage of the selling price as is determined from time to time by the Executive Committee and published in the Niue Island Gazette.

6. Recovery of debts - No debt incurred pursuant to the provisions of section 5 of this Ordinance shall be recoverable by civil proceedings in the High Court unless the plaintiff proves either -

(a) That the debtor is of sufficient ability to pay the debt according to the terms of the debt; or

(b) That the debt was incurred by fraud; or

(c) That the debtor has made away with any property for the purpose of evading payment of the debt.

7. Supply of goods in cases of emergency - (1) In cases of emergency the Executive Committee may give any Village Council or any other person or body of persons authority to enter into a contract with any wholesale or retail dealer for the supply of goods on credit for distribution or retail amongst any portion of the community.

"means the Executive Committee of Niue" by section 9 of the Niue Act 1966:

inds of movable personal property:

the High Court of Niue established by the Niue Act 1966:

means any disposition of goods and consumer for valuable consideration such disposition under the Chattels Act:

person engaged in any trade, business, occupation or undertaking in the sale or retail of goods to the consumer.

The provisions of subsection (1) of this Ordinance defined in the Niue Act 1966 have the effect:

Police to administer Ordinance - The Police shall be charged with the administration of this Ordinance under the general direction and supervision of the Commissioner.

SUPPLY OF GOODS ON CREDIT

Requirement of apparent ability to pay - (1) No person shall supply any person with goods on credit unless he has sufficient ability to pay for them.

The provisions of subsection (1) of this Ordinance shall apply to any person who supplies goods on credit to any person in the Niue Islands without requiring him to deposit such minimum percentage as is determined from time to time by the High Court and published in the Niue Island Gazette.

No debt incurred pursuant to the provisions of this Ordinance shall be recoverable in the High Court unless the debtor has sufficient ability to pay for the goods at the time of the supply.

of sufficient ability to pay for the goods at the time of the supply.

incurred by fraud; or which is made away with any person in consequence of evading payment.

Emergency - (1) In cases of emergency the Commissioner may give any Village Council or persons authority to supply goods to any person in the sale or retail of goods to the consumer.

(2) Any such authority may be given on such terms and conditions as the Executive Committee deems fit but no such authority shall be given unless adequate arrangements are made for securing due payment to the dealer for any goods so supplied.

PART III - OFFENCES

8. Obtaining credit by misrepresentation - Every person who by words or by any other means or in any way not amounting to the offence of obtaining credit by fraud under the Niue Act 1966, induces or attempts to induce any trader to supply him with goods on credit by falsely representing himself as being of sufficient ability to pay for the goods so supplied commits an offence against this Ordinance and shall be liable on conviction to a fine not exceeding twenty pounds (£20) or to imprisonment for a term not exceeding three months.

9. Cancellation of trading licence - Every trader who willfully and without bona fide claim of right supplies goods on credit in contravention of the provisions of section 5 of this Ordinance commits an offence against this Ordinance and the High Court may, in addition to any penalty incurred under any enactment for the time being in force, or otherwise, on conviction of the trader under this section cancel any licence issued to the trader under the "Regulations under the Cook Islands Act 1915 to provide for the Issue of Trading Licences", 1916, or suspend that licence for such time as the High Court deems fit and may also declare the trader to be disqualified from obtaining a trading licence or any specified class of trading licence for such time after the date of the conviction as the High Court deems fit.

10. Ordinance not to affect other Ordinances - No provisions of this Ordinance shall be construed to affect the provisions of any other Ordinance in force in Niue.

11. Repeal and Savings - (1) The Niue Debt Limitation Ordinance 1923 is hereby repealed.

(2) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that all matters, things and proceedings which have been commenced under the repealed Ordinance and which are pending or in progress on the coming into force of this Ordinance, may be continued and completed under this Ordinance.

12. Application of fines - All fines paid or collected pursuant to the provisions of this Ordinance shall form part of the public revenues of Niue and shall be paid into the appropriate account thereof.

SCHEDULE

Section 5 (2)

ITEM

Motor vehicles (other than motor cycles)
Motor cycles
Refrigerators and Deep Freezers
Washing machines
Radiograms and Tape-recorders
Outboard motors
Any other non-consumable item (other than
furniture and building materials)

- (a) exceeding £20 but not exceeding
£100 in value; or
- (b) exceeding £100 in value.