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Dogs

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DOGS ORDINANCE 1966
1966, No.35

An Ordinance to provide for the registration and control of dogs and the liability for injuries and damage caused by dogs (28 June 1966).

1. Short Title and Commencement - (1) This Ordinance may be cited as the Niue Island Dogs Ordinance 1966.

(2) Except as provided in section 21 of this Ordinance (Extermination of Female Pups), this Ordinance shall come into force on the first day of July, 1966.

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

- Part I - Preliminary. (Sections 1 to 3.)
- Part II - The Registrar. (Sections 4 to 6.)
- Part III - Registration. (Sections 7 to 19.)
- Part IV - Total number of Dogs on Niue subject to Control. (Sections 20 to 21.)
- Part V - Liability for injuries or damage caused by Dogs. (Sections 22 to 24.)
- Part VI - Miscellaneous Provisions. (Sections 25 to 32.)

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

3. Interpretation - In this Ordinance unless the context otherwise requires -

(a) "Chief Officer of Police" means the Chief Officer of Police of Niue:

"Comptroller" means the Comptroller of Customs for Niue appointed under the authority of the [Customs Act 1966]:

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

"Owner" (of a dog) includes every person who -

- (1) Has the dog in his keep, care, custody, charge, or possession for the time being, whether the dog is at large or in confinement; or
- (1i) Occupies any dwelling, business premises or other place in which the dog is usually harboured or permitted to remain; and

"to own" has a corresponding meaning:

"Public notice" in relation to any act, matter, or thing required to be publicly notified means the making of the act, matter, or thing generally known in Niue by any practicable or customary means, whether in addition to publication in the Niue Island Gazette or not:

"Public place" includes any place to which the public have access whether as of right or not:

"Registration label" means the label described in subsection (1) of section 8 of this Ordinance:

"Resident Commissioner" means the Resident Commissioner of Niue:

"Vehicle" means any vehicle within the meaning of the Niue Island Transport Ordinance 1965:

"Year" means a period of twelve months commencing on the first day of April in each year and ending with the 31st day of March then next ensuing.

- (b) Subject to the provisions of paragraph (a) of this section terms defined in the [Niue Act 1966] have the meaning so defined.

[The Customs Act 1966 has been substituted for the Customs Act 1913, section 9 of the Niue Act 1966 has been substituted for section 9 of the Cook Islands Amendment Act 1964, and the Niue Act 1966 has been substituted for the Cook Islands Act 1915 and Amendments, as indicated by the words in square brackets, these enactments being the corresponding enactments in force at the date of this reprint.]

PART II - THE REGISTRAR

4. Registrar and Registration Office - (1) The duties of the Registrar under this Ordinance shall form part of the duties of the Chief Officer of Police.

(2) The Chief Officer of Police shall be deemed to be "the Registrar" within the meaning of this Ordinance:

Provided that any reference in this Ordinance to the Registrar shall be construed to include reference to every officer of police performing the duties of Registrar under this Ordinance on behalf and under the authority of the Chief Officer of Police.

(3) The office of the Chief Officer of Police shall be deemed to be the office of the Registrar for the purposes of this Ordinance.

5. Principal duties of Registrar - The principal duties of the Registrar shall be:

- (a) To keep at his office a register for the purposes of this Ordinance;
- (b) To make in the register the entries required by this Ordinance;
- (c) To receive and record all registration fees and any other money payable at his office under this Ordinance.

6. Register - (1) The pages of the register shall be divided into columns under headings indicating the entries required to be made by the provisions of paragraph (b) of subsection (2) of section 9 of this Ordinance.

(2) The register shall be kept in book form or in any other form approved by the Resident Commissioner.

(3) The register may be examined by any person during office hours free of charge.

PART III - REGISTRATION

7. Dogs to be registered - (1) No person shall own any dog of a greater age than six months for a period exceeding fourteen days unless the dog is for the time being registered under the provisions of this Ordinance.

(2) Every owner of any such dog who does not apply for registration of that dog on or before the expiration of the period of fourteen days aforesaid commits an offence against this Ordinance and shall be liable on conviction to a fine not exceeding ten pounds (£10).

(3) It shall be lawful for the owner of any dog to have his dog registered before it attains the age of six months and the Registrar shall not refuse registration on the ground that the dog has not attained that age.

8. Dog collars and registration labels - (1) There shall be kept at the office of the Registrar a supply of dog collars having a metal label securely affixed to each collar numbered consecutively from number one in each year upwards and marked with the year for which each collar is issued.

(2) Every owner shall be entitled to receive a collar, as provided in section 9 of this Ordinance, in respect of each dog which is being registered.

(3) Duplicate collars shall be issued on affirmation that the original has been lost or stolen.

9. Mode of registration - (1) Application for every registration required under this Ordinance shall be made by the owner, or by some person on his behalf, delivering or giving at the office of the Registrar a description of the dog and paying the prescribed registration fee and other charges (if any) unless remitted pursuant to section 19 of this Ordinance, with his application for registration.

(2) On receiving every amount so payable the Registrar shall:

- (a) Issue a receipt therefore and a collar bearing the then available next number in consecutive order, to be worn on the neck of the dog;
- (b) Register the dog by entering in the register -

- (i) The name and residence of the owner;
- (ii) The number of the registration label on the collar issued;

- (iii) A description of the dog by which the collar is to be worn including kind or breed, age, sex, colour, and other distinguishing marks or peculiarities (if any);
- (iv) Such other particulars as the Resident Commissioner may from time to time determine.

(3) Every person applying for the registration of a dog, who knowingly inserts or omits, or knowingly causes or permits to be inserted or omitted in the description of the dog to be registered any matter or thing contrary to or for the purpose of concealing the truth or who wilfully makes any false or misleading statement or material omission in any information supplied to the Registrar, commits an offence against this Ordinance and shall be liable on conviction to a fine not exceeding ten pounds (£10).

10. Effect of registration - Every registration when duly made shall be deemed to be in force on the day on which it is made, and shall continue in force until the thirty-first day of March then next ensuing.

11. Annual registration - (1) Every registration shall be again made on or before the fifteenth day of April of the next ensuing year if the dog first registered is still alive and kept on Niue at that time, and shall be again so made from year to year.

(2) Every owner who does not apply for registration on or before the fifteenth day of April of each year as specified in subsection (1) of this section commits an offence against this Ordinance and shall be liable on conviction to a fine not exceeding ten pounds (£10).

(3) The provisions of subsection (2) of section 8, section 9, and section 10 of this Ordinance shall apply.

12. Registration fees and other charges - (1) The fees payable for the registration of dogs pursuant to section 7 or section 11 of this Ordinance shall be:

- (a) for any one male dog, five shillings (5s);
- (b) for any one female dog, one pound (£1):

Provided that in respect of every first registration which by the provisions of section 7 of this Ordinance is not required to be made until after the first day of September in any year and applied for after that date, only half the prescribed fees shall be payable in each case.

(2) The charge for collars and duplicate collars including registration labels shall be such amount of money as the Resident Commissioner from time to time by public notice may determine, and as far as not so determined the charge for a collar as aforesaid shall be deemed to be included in the registration fee provided in subsection (1) of this section and the charge for duplicate collars shall be the amount of their cost to the Government.

13. Change of ownership - (1) Where the ownership of a registered dog is changed, the registration of the dog shall continue in force, but the new owner shall within fourteen days notify the Registrar of the change in ownership, and the Registrar shall, without payment of any fee, enter the name of the new owner in the register in substitution for the name of the previous owner.

(2) Every person who fails to notify the Registrar as aforesaid commits an offence against this Ordinance.

14. Registration label may be fixed to any other collar - It shall be lawful for the owner of any dog registered under this Ordinance to affix to any other dog collar (in the manner in which it was affixed to the collar supplied by the Registrar) the registration label affixed to the collar supplied in respect of that dog by the Registrar:

Provided that nothing in this section shall be construed to authorise the wearing of any registration label by any dog other than the dog in respect of which it was issued.

15. Offences in respect of registration, collars and labels - (1) Every person commits an offence against this Ordinance, who:

- (a) Falsely makes or counterfeits or, knowing the same to be false or counterfeit, purchases, uses, or has in his possession any label resembling or apparently intended to resemble or pass for a registration label;
- (b) Is the owner of any dog wearing a registration label issued in respect of another dog; or
- (c) Has his dog duly registered but allows it to be at large not wearing a collar having the registration label affixed thereto; or
- (d) Wilfully abandons any dog, whether for the purpose of avoiding registration or not;
- (e) Removes (except for the purposes of section 14 of this Ordinance) the registration label affixed to the collar to be worn by his dog; or
- (f) Removes from the neck of any dog the collar or the registration label required by this Ordinance to be worn by that dog.

(2) If any dog is destroyed as provided in section 16 of this Ordinance in consequence of the removal of the collar or registration label specified in paragraph (f) of subsection (1) of this section, every person responsible for such removal may be ordered to pay to the owner the full value of the dog so destroyed as determined by the High Court in addition to any fine imposed.

[In subsection (1) a new paragraph (e) was substituted by section 2 of the Dogs Amendment Ordinance 1966.]

16. Dogs not wearing collar or suffering from diseases may be destroyed - (1) Any officer of police may destroy every dog found at large in any place, if that dog:

- (a) Being a dog apparently over the age of six months does not wear a collar having the registration label affixed thereto; or
- (b) Being a dog of any age and whether wearing a collar as aforesaid or not, is apparently suffering from disease or neglect.

(2) Every officer of police may for the purposes of this section enter any place at any time.

(3) Any person other than an officer of police finding a dog apparently over the age of six months at large in any place not being a public place without wearing a collar having the registration label affixed thereto, may, without being answerable to the owner, destroy the dog if, on reasonable grounds he fears that the dog may cause damage to his property.

17. Burden of proof - In any proceedings under this Ordinance:

- (a) Any dog not wearing a collar having the registration label affixed thereto shall, until the contrary is proved, be deemed to be unregistered;
- (b) Any dog wearing after the fifteenth day of April in any year a collar having affixed thereto the registration label issued for the year preceding the then current year, shall, until the contrary is proved, be deemed to be not registered for the then current year as prescribed in section 11 of this Ordinance (Annual Registration);
- (c) The proof that a dog has been duly registered or does not require to be registered, shall be on the defendant.

18. Imposition of fine not to affect payment of fees - The imposition by the High Court of any fine for failing to comply with the provisions of this Ordinance relating to registration shall not be construed as a release from the payment of any fee or other charge due.

19. Remission and refund of fees - The Resident Commissioner may, on grounds of hardship, cause the whole or any portion of any fee payable under this Ordinance to be remitted or refunded.

PART IV - TOTAL NUMBER OF DOGS ON NIUE
SUBJECT TO CONTROL

20. Importation of dogs restricted - (1) For the purposes of this section a dog shall be deemed to be imported into Niue if and as soon as in any manner whatever it is brought or come into Niue from parts beyond the seas.

(2) It shall not be lawful to import any dog into Niue from any country except, as provided in this section, from New Zealand.

(3) It shall not be lawful to import any dog into Niue from New Zealand except with the prior consent of the Comptroller in writing.

(4) Any such consent may be given subject to such terms and conditions as the Comptroller may impose and no such consent shall be given unless the dog is certified as being free from disease by a veterinary surgeon registered with the Veterinary Surgeons Board in New Zealand.

(5) Every person who does not comply with the provisions of this section or with any terms or conditions imposed by the Comptroller under this section commits an offence against this Ordinance and shall be liable on conviction to a fine not exceeding ten pounds (£10).

(6) In addition to any fine so imposed the High Court may order that any dog imported in breach of the provisions of this section shall be destroyed by the police or be removed from Niue.

(7) The owner of every dog imported into Niue for any period of time whatever shall, as regards that dog, be subject in all respects to the provisions of this Ordinance:

Provided that the Comptroller may exempt the owner of any such dog from the duty to apply for registration who enters Niue as a visitor for a specified period of time and proves to the satisfaction of the Comptroller that the dog has been registered in New Zealand pursuant to the Dogs Registration Act 1955 for a period of time covering the time of his visit to Niue and where any such exemption has been granted the provisions of Part III of this Ordinance (Registration) shall to the extent of that exemption be read subject to the provisions of this proviso.

21. Extermination of female pups - (1) It shall be the duty of every owner of a bitch to destroy at birth all female pups whelped by such bitch.

(2) Every person who does not comply with the provisions of subsection (1) of this section commits an offence against this Ordinance and shall be liable on conviction to a fine not exceeding ten pounds (£10) and, in addition to any fine so imposed, the High Court may order that any pup not destroyed as provided herein, be destroyed by the police.

(3) This section shall come into force on a day specified by the Resident Commissioner, acting with the concurrence of the Executive Committee, by public notice and, after so coming into force, its operation may be suspended in the same manner and this section may again be so brought into force or its operation so suspended, as the case may be, from time to time as circumstances require and shall be of no force or effect during any period of suspension.

[This section had not been brought into force as at 1 January 1967, being the date of this Reprint.]

PART V - LIABILITY FOR INJURIES OR DAMAGE CAUSED BY DOGS

22. Dangerous dogs may be destroyed - Where complaint is made to the Chief Officer of Police or the High Court that a dog, whether at large or not, is dangerous and is not kept under proper control, the High Court, if it is satisfied as to the grounds of the complaint, may, in addition to any fine that may be imposed under this Ordinance, order that the dog be destroyed by the Police.
23. Dogs attacking persons or animals or rushing at vehicles - (1) Where any dog:
- (a) Rushes at, or attacks, bites, startles, or worries any person or any kind of poultry or animal being the property of any person whereby such person, poultry or animal is killed or injured or endangered or any other property damaged or endangered; or
 - (b) Rushes at any vehicle in such a manner as to cause or to be likely to cause an accident;
- the owner of the dog commits an offence against this Ordinance and shall be liable on conviction to a fine not exceeding ten pounds (£10).
- (2) If it is proved to the satisfaction of the High Court that the owner of a dog which causes an occurrence as aforesaid, permitted that dog to be at large although the dog was known to him to have been the cause of any such occurrence before, the owner shall be liable to a fine not exceeding twenty pounds (£20) in lieu of the fine provided in subsection (1) of this section.
- (3) Any person affected by the occurrence or witnessing same may, without being answerable to the owner, forthwith destroy the dog.
- (4) Any fine provided in this section may be imposed in addition to any liability the owner may incur for injury or damage caused by the dog.
- (5) In addition to any fine imposed under this section, the High Court may order that any dog which has not been destroyed pursuant to subsection (3) of this section, be destroyed by the Police.
24. Mischievous propensity in dog need not be proved - The owner of a dog shall be liable in damages for injury done by the dog, and it shall not be necessary for the person seeking damages to show a previous mischievous propensity, or that the injury was attributable to neglect on the part of the owner of the dog.

PART VI - MISCELLANEOUS PROVISIONS

25. Protection of Officers of Police acting under authority of Ordinance - The Chief Officer of Police shall with the approval of the Resident Commissioner issue directions as to the method to be followed by officers of police in destroying dogs in the respective circumstances specified in this Ordinance and no officer of police who,

while exercising the powers conferred on him by the provisions of this Ordinance, in good faith does or orders or causes to be done any act in pursuance or intended pursuance of directions so issued, shall be under any civil or criminal liability in respect thereof.

26. No liability where dog wounded in attempt to destroy - No person who, with the intention of destroying any dog under powers conferred on him by the provisions of this Ordinance, wounds or maims the dog shall, except in a case in which he causes unnecessary suffering to the dog, be under any liability, whether criminal or civil, for any injury done to the dog.

27. No compensation for destruction of dogs - No compensation shall be payable to the owner of any dog destroyed by the police pursuant to any Order made in that behalf by the High Court under this Ordinance or in the exercise of powers conferred in that behalf on the police by the provisions of this Ordinance.

28. Imposition of fines not affected by destruction of dog - Where this Ordinance provides for the imposition of a fine for any offence specified in this Ordinance, that fine may be imposed by the High Court whether or not the dog in respect of which the offence has been committed, was destroyed before the fine is imposed.

29. Disposal of carcasses of destroyed dogs - The Chief Officer of Police shall, with the approval of the Resident Commissioner, issue directions for the method of collection and disposal of carcasses destroyed by the Police pursuant to the provisions of this Ordinance and any directions so issued shall be carried out accordingly.

30. Offences (General) - (1) Every person commits an offence against this Ordinance who:

- (a) Fails to comply with any duty or obligation imposed on him by the provisions of this Ordinance; or
- (b) Wilfully makes any false or misleading statement or any material omission in any application, information, or report to the police or the Comptroller; or
- (c) Wilfully obstructs, hinders, or resists any person in the exercise or execution of any power, duty, or function conferred or imposed on such person by the provisions of this Ordinance.

(2) Every person who commits an offence against this Ordinance for which no penalty is provided in this Ordinance elsewhere than in this section or in the [Niue Act 1966] is liable to a fine not exceeding five pounds (£5).

[In subsection (2) the Niue Act 1966, being the corresponding enactment in force at the date of this reprint, has been substituted for the Cook Islands Act 1915.]

31. Repeals and Savings - (1) The following Ordinances are hereby repealed, namely -

The Niue Dog Registration Ordinance 1916, No.5
The Niue Dog Registration Amendment Ordinance
1958, No.57

(2) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that:

- (a) Every register and every entry therein which are kept or made under the repealed Ordinances and which are of continuing effect at the coming into force of this Ordinance shall enure for the purposes of this Ordinance as if they had originated under the corresponding provisions thereof;
- (b) All dog collars and registration labels which are issued under the repealed Ordinances and which are of continuing validity or effect at the coming into force of this Ordinance shall ensure for the purposes of this Ordinance as if they had been issued under the corresponding provisions thereof;
- (c) All matters, things, and proceedings which have been commenced under the repealed Ordinances and which are pending or in progress at the commencement of this Ordinance, may be continued and completed under this Ordinance.

32. Application of fees and fines - All fees and charges paid to the Registrar and all fines collected pursuant to any provisions of this Ordinance shall form part of the public revenues of Niue and shall be paid into the appropriate account thereof.

DOGS AMENDMENT ORDINANCE 1966
1966, No.39

An Ordinance to amend the Niue Island Dogs Ordinance 1966, No. 35 (13 September 1966).

1. Short Title and Commencement - (1) This Ordinance may be cited as the Niue Island Dogs Amendment Ordinance 1966 and shall be read together with and deemed part of the Niue Island Dogs Ordinance 1966, No.35 (hereinafter referred to as the principal Ordinance).

(2) This Ordinance shall come into force on the day on which it is assented to by the Resident Commissioner.

2. [This section amended section 15 of the principal Ordinance.]