



NIUE TOURIST AUTHORITY ACT 1995

No. 200

[Signed 7 December 1995]

ANALYSIS

- | | | | |
|--|------------------------------|-----------------------------|--------------------------------|
| 1. | Title | 14. | Functions of Authority |
| | Short Title and | 15. | Powers of the Authority |
| | Commencement | 16. | Authority to give effective to |
| 2. | Interpretation | | directions of Government |
|
 | | | |
| <u>PART I</u> | | | |
| <u>TOURIST AUTHORITY</u> | | | |
| 3. | Establishment of | 17. | Remuneration and allowances of |
| | Tourist Authority | | members of the Board |
| 4. | Board of Directors | 18. | Application of Fees |
| 5. | Term of Office of Members of | 19. | Tourist Authority Account |
| | Authority | 20. | Preparation of estimates |
| 6. | Extraordinary | 21. | Authorisation of expenditure |
| | Vacancies | 22. | Annual Reports and Accounts |
| 7. | Meetings of Board | <u>PART IV</u> | |
| 8. | Minutes of Meetings | <u>MISCELLANEOUS</u> | |
| 9. | Disclosure of Conflicting | 23. | Breach of Act or regulations |
| | Interest | 24. | Regulations |
| 10. | Board may refer matters for | 25. | Transitional |
| | investigations | 26. | Repeals |
| 12. | Director and other employees | | |
| 11. | Delegation of Powers of | | |
| | of Authority | | |
|
 | | | |
| <u>PART II</u> | | | |
| <u>OBJECTIVES FUNCTIONS AND</u> | | | |
| <u>POWERS</u> | | | |
| 13. | Objectives of the Authority | | |

An Act to reconstitute the Tourist Authority Board as a Tourist Authority

BE IT ENACTED by the Niue Assembly in Session assembled, and by the authority of the same, as follows -

11/12

Niue Laws 1990-1996

1. Short Title and commencement - (1) This Act may be cited as the Niue Tourist Authority Act 1995.

(2) This Act shall come into force on the 2nd day of November 1995.

2. Interpretation - In this Act, unless the context otherwise requires -

"Accommodation premises" means and includes Hotels, Motels, Guesthouse, boarding houses and all land, buildings and premises used wholly or partly, or intended to be used wholly or partly to provide lodgings for tourists;

"Appointed member" means any member of the Board appointed pursuant to section 4(2)(a);

"Authority" means the Tourist Authority established pursuant to section 3;

"Board" means the Board of Directors of the Authority established pursuant to section 4;

"Director" means the Director of Tourism appointed pursuant to section 12;

"Member" means a member of the Board;

"Minister" means the Minister of Tourism;

"Tourism" means the provision of scenic attractions, recreational activities and services that attract tourists;

"Tourism Industry" means and includes, not only accommodation, but Tour Operators, Inbound Operators, Travel Agents and Airline Agents.

PART I

3. Establishment of Tourist Authority - (1) There shall continue to be an Authority to be called the Tourist Authority.

(2) The Authority shall be a body corporate with perpetual succession and a common seal. Of suing and being sued and of doing and suffering all such acts and things as bodies corporate may lawfully do and suffer.

4. Board of Directors - (1) There shall be a Board of Directors of the Authority which shall subject to the provisions of this Act have overall control of the Authority.

(2) The Board shall consist of

(a) Four appointed members, being persons from among those of competence and experience in -

(i) the tourism industry; and

(ii) private commercial interests and having personal attributes, qualifications and experience as will enable those persons to represent the tourist industry as well as the general community interests.

Niue Tourist Authority

- (b) The Financial Secretary or an official of the Treasury nominated by the Financial Secretary who shall be an ex-officio member with no voting rights.
- (c) The Director shall be an ex-officio member with no voting rights.
- (3) The appointed members of the Board shall be appointed by Cabinet. Cabinet shall from among those appointed members appoint one as Chairperson of the Board.
- (4) The powers of the Board shall not be affected by any extraordinary vacancy in its membership.
5. Term of office of members of Authority - (1) Except as otherwise provided in this Act every appointed member shall hold office for a term of three years but may from time to time be re-appointed.
- (2) Notwithstanding anything in this Act, every appointed member whose office is terminated by effluxion of time shall continue to hold office until his successor comes into office.
6. Extraordinary vacancies - (1) An appointed member of the Board may resign his office at any time by written notice given to the Minister.
- (2) An appointed member may at any time be removed from office by Cabinet for disability, bankruptcy, neglect of duty or misconduct proved to the satisfaction of Cabinet.
- (3) If an appointed member dies or resigns his office by written notice given to the Minister or is removed from office the vacancy shall be deemed to be an extraordinary vacancy.
- (4) In the case of an extraordinary vacancy, Cabinet may subject to the criteria for the composition of the Board set forth in section 4(2) appoint any person to fill the vacancy.
- (5) Any appointed member appointed to fill an extraordinary vacancy shall hold office only for the unexpired portion of the term of office of his predecessor, but may be re-appointed.
7. Meetings of Board - (1) The first meeting of the Board shall be held on a day to be appointed by the Chairperson.
- (2) Subsequent meetings shall be held at such times and places as the Board or the Chairperson may from time to time appoint.

Niue Laws 1990-1996

- (3) The Chairperson or any two members may at any time call a special meeting of the Board within 3 days' notice.
- (4) At all meetings a majority of the members for the time being of the Board shall form a quorum.
- (5) The Chairperson shall preside at all meetings at which he is present. In the absence of the Chairperson from any meeting, the members present shall appoint one of their number to be Chairperson of that meeting.
- (6) At any meeting the Chairperson shall have a deliberative vote and in the case of an equality of votes shall also have a casting vote.
- (7) All questions arising at any meeting shall be decided by a majority of the valid votes of members recorded thereon.
- (8) The Minister should request the right to attend and address any meeting of Board, but not to be present during voting.
- (9) Subject to the provisions of this Act and of any regulations made thereunder the Board may regulate its procedure in such manner as it thinks fit.
8. Minutes of meetings - (1) The Board shall cause minutes to be kept in a book provided for the purpose, of all resolutions and proceedings of its meetings.
- (2) The minutes shall be signed by the Chairperson at the next meeting subsequent to the passing thereof.
- (3) A copy of the minutes of every meeting shall be furnished to every member.
9. Disclosure of conflicting interest - (1) Any member who has a direct or indirect pecuniary interest in any matter before the Board or any committee thereof (apart from any interest in common with the public or with any section of the public or with any section of the tourist industry affected by the matter in question) shall as soon as possible after the relevant facts have come to his notice, disclose the nature of his interest at a meeting of the Board.
- (2) A disclosure under this section shall be recorded in the minutes of the meeting of the Board and the member shall not take part after the disclosure in any deliberation or decisions relating to the matter, but shall be counted as present for the purpose of forming a quorum of the Board for any such deliberation or decision.
10. Board may refer matters for investigation - The Board may from time to time appoint one or more of its members or any other qualified person to investigate and report to the Board on such matters as are referred to him or them by the Board for the purpose of the proper exercise of its powers of functions under this Act.

Niue Tourist Authority

11. Delegation of Powers of Authority - (1) The Authority may from time to time appoint a Committee or Committees consisting of two or more persons being members of the Board or officers of the Authority and may from time to time delegate to any such Committee any of the powers or functions of the Authority except for the power of delegation conferred by this section.
- (2) The Authority may from time to time delegate any of its powers to any member of the Board or officer or employee of the Authority except for the power of delegation conferred by this section.
- (3) Subject to any general or special directions given or conditions imposed by the Authority or Committee or person to whom any powers are delegated pursuant to this section the Committee or person to whom any powers are so delegated may exercise those powers in the same manner and with the same effect as if they had been conferred directly by this Act and not by delegation.
- (4) Every Committee or person purporting to act pursuant to any delegation under this section shall be presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary.
- (5) Any delegation under this section may be made to a specified person or to persons of a specified class or may be made to the holder for the time being a specified office or appointment or to the holders of offices or appointments of a specified class.
- (6) Any delegation under this section may be revoked at any time.
- (7) The delegation of any power by the Authority shall not prevent the exercise of that power by the Authority.
12. Director and other employees - (1) The Authority shall appoint a Director of Tourism who shall be the Chief Executive Officer of the Authority.
- (2) The Director in consultation with the Authority may from time to time appoint such other officers and employees including acting or temporary or casual officers and employees as it thinks necessary for the efficient exercise of its functions and powers.
- (3) Any person in the service of the Crown may be appointed to be an officer or employee of the Authority but no such person shall be entitled to hold office concurrently as an officer or employee of the Authority and as a servant of the Crown except:
- (a) In the case of a person subject to Part XXXI of the Niue Act 1966 with the consent of the Public Service Commission.
- (4) Subject to the provisions of this Act the Authority may employ a Director of Tourism and other employees upon such terms conditions and at such salaries and allowances as it thinks fit and may at any time remove any officer or employee from his office or employment.

Niue Laws 1990-1996

(5) No person by reason only of being a director or employee of the Authority shall be deemed to be employed in the Public Service, within the meaning of Part XXXI of the Niue Act 1966, except that for the purposes of the Government Superannuation Fund Act 1956, service as an officer or employee appointed under this Act shall be deemed to be Government Service.

PART II**OBJECTIVES, FUNCTIONS AND POWERS OF THE AUTHORITY**

13. Objectives of the Authority - The primary objective of the Authority shall be to encourage and promote the development of tourism in Niue in a manner which is appropriate to the interests of developing Niue as a tourist destination having regard also to the community at large and the objectives of Government as set out in the Niue Strategic Plan as promulgated from time to time.

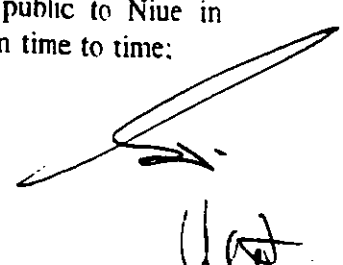
14. Functions of Authority - In pursuance of the primary objective the Authority shall have the following functions:

(a) As to policy and planning: —

- (i) to recommend for Cabinet ^{approval national & regional} policy for the development, ~~promotion~~, regulation and control of tourism;
- (ii) to assist, and advise the Minister, in the implementation of national and regional tourism policy;
- (iii) to co-ordinate ~~policy~~ and planning for the development and promotion of tourism;
- (iv) to undertake such planning and research (not being undertaken by any other agency or department of the Government of Niue) as may be required to provide the Minister with advice and guidance on matters of policy and planning affecting the tourist industry;
- (v) to undertake such planning and research as may be required to enable the Authority to discharge any other of its functions under this section.

(b) As to marketing and promotion;

- (i) to promote and encourage travel by the public to Niue in accordance with policies as established from time to time;

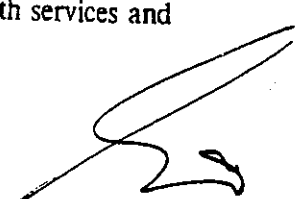



Niue Laws 1990-1996

- (ii) to establish and promote a continuing programme of community education as to the benefits and advantages of tourism.
- (e) As to general administration and other matters:
 - (i) to hold such inquiries and gather such information as will enable it to determine the requirements of tourists and the public as to the provision of services of all kinds and other amenities on premises licensed pursuant to this Act.
 - (ii) to conduct enquiries into any matters at the request of or with the approval of the Minister and to make recommendations to the Minister in respect thereof;
 - (iii) to do such other acts and things as the Authority may be required or authorised to do by this or any other Act or as may in the opinion of the Authority be necessary or desirable for the purposes of this Act.

15. Powers of the Authority - (1) The Authority shall have all the powers reasonably necessary for the effective performance of its functions.

- (a) Subject to the provisions of any enactment applicable to the Authority, fix regulate or make such charges as it determines from time to time for the use of service, works, recreation grounds, equipment, apparatus, attractions, amenities, or facilities provided maintained controlled or operated by the Authority.
- (b) Contract for the execution or provision by any person of any work or services authorised by this or any other Act to be executed or provided by the Authority in such manner and on and subject to such terms and conditions as the Authority thinks fit.
- (c) For the purpose of promoting and encouraging tourist traffic to Niue, act in combination or association with any person or body of persons whether incorporated or not and whether in Niue or elsewhere or any Government department or agency that may be engaged concerned or interested in the promotion of tourist traffic from overseas and contribute to the expenses involved in any such combination or association;
- (d) To make recommendations to the Minister to regulate on standards to be complied with by hotels, accommodation premises, restaurants, scenic attractions and recreational facilities together with services and amenities, in connection therein.

Niue Tourist Authority

16. Authority to give effect to directions of Government - (1) In the exercise of its functions and powers the Authority shall have regard to any general policy directions that may be made by Cabinet and conveyed to it by the Minister in respect of any functions or activities of the Authority and shall give effect to any decision of the Government in relation thereto conveyed to the Authority in writing by the Minister.

(2) A copy of every written directive from the Cabinet shall be included in the annual report required to be made by the Authority by Cabinet pursuant to section 22.

PART III

FINANCIAL

17. Remuneration and allowances of members of the Board - The members of the Board shall be paid out of the Niue Tourist Authority account.

18. Application of fees - All fees and other moneys paid under this Act shall be paid into the Niue Tourist Authority Account and all expenses incurred in respect of the administration of this Act and regulations thereunder shall be paid out of such moneys as may from time to time be appropriated by the Niue Assembly.

19. Niue Tourist Authority Account - (1) The Authority shall keep such bank account or accounts as may from time to time be approved by the Board.

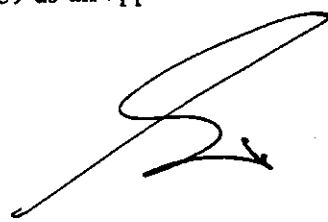

(2) No money shall be withdrawn from any bank account except by cheque or other instrument (not being a promissory note or bill) signed by such person or persons in such manner as the Board may from time to time determine.

20. Preparation of estimates - (1) The Authority shall in each year prepare and submit annual estimates of revenue and expenditure, as the Minister responsible for Finance directs, covering the operations of the Authority in the exercise of its powers and functions.

(2) The estimates may in respect of any undertaking of the Authority provide for finance by way of loans or overdraft the terms and conditions of which shall be subject to the approval of Cabinet.

(3) The Minister shall submit the estimates, with such recommendations to Cabinet for approval.

(4) A copy of the estimates as approved by Cabinet shall be attached to the estimates prepared pursuant to section 14 of the Public Revenues Act 1959 as an appendix thereto.

Niue Laws 1990-1996

21. Authorisation of expenditure - (1) The Board may authorise expenditure in accordance with the estimates approved by Niue Legislative Assembly and as between items of expenditure in the approved estimates may, with the approval of the Cabinet exercise a power of virement to an extent not exceeding twenty per cent of the item to which funds are transferred.

(2) The Cabinet may authorise expenditure in excess of the total provided for in the estimates to the extent that receipts of the Authority exceed the amount estimates.

22. Annual report and accounts - (1) The Authority shall, as soon as practicable after the 30th of June in each year, furnish a report covering its activities for the year ending on 30th June, including financial statements showing estimates and actual expenditure and receipts together with such accounts as are appropriate to the nature of its financial operations.

(2) The financial statements required to be furnished to the Minister in accordance with subsection (1) shall be in such form as may from time to time be directed by the Minister responsible for Finance and shall be completed and available no later than two months after the end of the financial year to which they relate.

(3) The accounts and financial statements of the Authority's activities shall be presented for examination in conjunction with the audit required pursuant to Article 60 of the Constitution and a copy of the annual accounts and report shall be laid before the Assembly as soon as practicable after audit.

PART IV

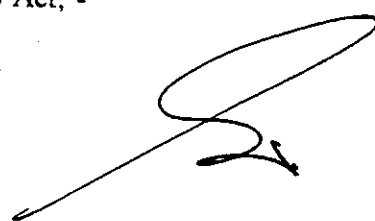
MISCELLANEOUS

23. Breach of Act or regulations - Every person who commits or attempts to commit or is concerned in committing or attempting to commit a breach or violation of the provisions of this Act or of any regulations made under this Act for which no special penalty is provided is liable for every offence to a fine not exceeding one thousand dollars and if the breach or violation is a continuing one to a further fine not exceeding one hundred dollars for every day or part of a day during which the offence continues.

24. Regulations - (1) The Cabinet may from time to time make all such regulations as may be necessary or expedient for giving effect to the provisions of this Act and for the due administration thereof.

(2) All such regulations shall be laid before the Assembly within 28 days after the making thereof if the Assembly is then in session, and, if not, shall be laid before the Assembly at the commencement of the next ensuing session.

25. Transitional - (1) Upon the date of coming into force of this Act, -



11/10

Niue Tourist Authority

- (a) All assets and liabilities of the former Board shall be transferred to and vest in the Authority without further assurance than this section and the Authority shall have all powers necessary to take possession of recover and deal with such assets and discharge such liabilities;
- (b) Every agreement, whether in writing or not and every deed, bond or other instrument to which the former Board was a party or which affected the former Board and whether or not of such a nature that the rights, liabilities and obligations thereunder could be assigned, shall have effect as if the Authority were a party thereto or affected thereby instead of the former Board as if for every reference (however worded and whether express or implied) therein to the former Board there were substituted in respect of anything to be done on or after such date of coming into operation a reference to the Authority;
- (c) Any person who was an officer of the Public Service and who is employed by the Tourist Authority, may at any time within three months after his appointment as an officer or employee of the Tourist Authority, elect to resume employment in the Public Service shall be deemed to have continued without interruption.
- (2) Every person is a member of the former Board prior to the coming into force of this Act shall, continue to be a member of the Authority until either -
- (a) Every person who is a member of the former Board prior to coming into force of this Act shall cease to be a member after fourteen days;
- (b) Former Board members may be considered in the new Board as described in this Act if they indicate in writing to Cabinet within fourteen days of this Act coming into force.
- (3) In this section, "the former Board" means the Tourist Board established by section 3 of the Tourist Board Ordinance 1970.

26. Repeals - The Tourist Board Ordinance 1970 is hereby repealed.

This Act is administered by the Niue Tourist Authority.

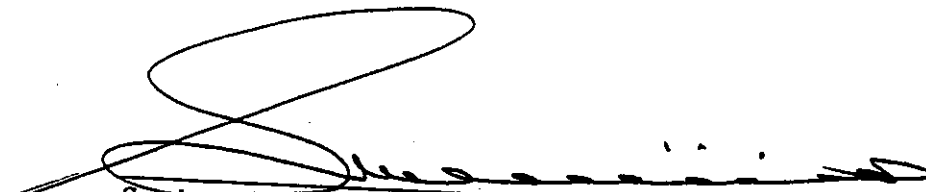




Niue Laws 1990-1996

I. SAM PATA EMANITAGELAGI, Speaker of the Niue Assembly, hereby certify that the requirements of Article 34 of the Niue Constitution have been duly complied with.

SIGNED AND SEALED at the Assembly Chamber this 7th day of December 1995.


Speaker of the Niue Assembly

COUNTERSIGNED in the presence of the Speaker


Clerk of the Niue Assembly

THIS BILL was passed by the Niue Assembly on the 2 day of November 1995


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