



ANALYSIS

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1970, No. 15

An Act to amend the Niue Act 1966

[19 August 1970]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title—This Act may be cited as the Niue Amendment Act 1970, and shall be read together with and deemed part of the Niue Act 1966 (hereinafter referred to as the principal Act).

PART I

MINERALS

2. Interpretation—In this Part of this Act, unless the context otherwise requires,—

“Minerals” means all minerals, mineral substances, gold, silver, precious metals, ferrous metals, non-ferrous metals, bauxite, phosphate, phosphate rock, diatomaceous earth, limestone, marble, coal, bitumen, lignite, precious stones, and petroleum existing in their natural state on or under the surface of any land; and includes any other substance existing in its natural state on or under the surface of any land which the Resident Commissioner from time to time, by notice in the *Niue Island Gazette*, declares to be a mineral for the purpose of this Part of this Act; but does not include—

(a) Any coral, common clay, common sand, common gravel, common stone, or common earth; or

(b) Any prescribed substance within the meaning of the Atomic Energy Act 1945:

“Petroleum” includes any mineral oil or relative hydrocarbon and natural gas existing in its natural condition in strata; but does not include coal, helium, or bituminous shales, or other stratified deposits from which oil can be extracted by destructive distillation.

3. Prospecting for and mining minerals—The Niue Island Assembly may, by Ordinance, make provision for prospecting for and mining minerals (including minerals in the seabed or subsoil of the continental shelf of Niue), for the vesting of any minerals or classes of minerals in the Crown, and for any other like or related purposes.

4. Reserved enactment—The First Schedule to the principal Act (as amended by section 104 of the Niue Amendment Act (No. 2) 1968) is hereby further amended by adding the following words:

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PART II

MISCELLANEOUS AMENDMENTS

5. Qualifications of Medical Officers—Section 22 of the principal Act is hereby amended as from its commencement by omitting from subsection (1) the words “be qualified for appointment as a Medical Officer or to”.

6. Justices of the Peace—Section 61 of the principal Act is hereby amended by adding the following subsection:

“(3) Notwithstanding anything in subsection (2) of this section, the following Justices of the Peace for Niue shall not exercise the jurisdiction of a Commissioner of the High Court:

“(a) Any person who has attained the age of 68 years:

“(b) Any elected member of the Niue Island Assembly.”

7. New sections as to offences by children inserted—The principal Act is hereby further amended by inserting, after section 237, the following heading and sections:

“Infancy

“237A. **Children under 10**—(1) No person shall be convicted of an offence by reason of any act done or omitted by him when under the age of 10 years.

“(2) The fact that by virtue of this section any person has not been or is not liable to be convicted of an offence shall not affect the question whether any other person who is alleged to be a party to that offence is guilty of that offence.

“237B. **Children between 10 and 14**—(1) No person shall be convicted of an offence by reason of any act done or omitted by him when of the age of 10 but under the age of 14 years, unless he knew either that the act or omission was wrong or that it was contrary to law.

“(2) The fact that by virtue of this section any person has not been or is not liable to be convicted of an offence shall not affect the question whether any other person who is alleged to be a party to that offence is guilty of that offence.”

8. Arrested person may be released on bail by constable in certain cases—The principal Act is hereby further amended by inserting, after section 255, the following section:

“255A. (1) Where, under the provisions of subsection (1) of section 250 of this Act, any person is arrested without warrant

by a constable or some other person on the grounds that the constable or other person suspects on reasonable grounds that the person arrested has committed any one or more of the following offences:

- “(a) Wilful mischief to property; or
- “(b) Resisting a constable in the execution of his office; or
- “(c) Using profane, indecent, or obscene language; or
- “(d) Indecent behaviour; or
- “(e) Assault; or
- “(f) Fighting or drunkenness in a public place; or
- “(g) Any offence against the provisions of subsection (2) of section 205 of this Act,—

then, notwithstanding the provisions of subsection (2) of section 250 of this Act, on the arrested person being brought before a constable in charge of any police station, the constable in charge of the police station may, in his discretion, release the arrested person on bail, with or without sureties, conditioned for the appearance of the arrested person before the High Court at such place and at such time (being not more than 3 clear days after the date of the arrest of the arrested person) as the constable in charge of the police station specifies.

“(2) Should the constable in charge of a police station not release any arrested person on bail in accordance with the provisions of subsection (1) of this section, the provisions of subsection (2) of section 250 of this Act shall apply to that person.

“(3) Where any person who has been released on bail in accordance with the provisions of subsection (1) of this section appears before the High Court, then, on his appearance before the High Court, he shall be deemed to be in custody.

“(4) Nothing in subsection (1) of this section shall derogate from the provisions of section 257 of this Act.”

9. Bail—The principal Act is hereby further amended by repealing section 282, and substituting the following section:

“282. (1) When any person is admitted to or released on bail under this Act or under any other enactment, he shall, with or without sureties, enter into a bail bond in favour of Her Majesty the Queen in such sum as may be required, conditioned in such manner as may be appropriate to the particular case and as may be required.

“(2) Every such bond shall be in a form from time to time prescribed by the Chief Judge of the High Court, or, if no such form is prescribed by him, in any suitable form.

“(3) Every such bond shall be taken by and before a Judge of the High Court, a Magistrate, or the Registrar of the High Court, or, where a person is released on bail pursuant to section 255A of this Act, by a constable in charge of the police station.

“(4) Every such bond shall be signed by the person admitted to or released on bail and by his sureties (if any) and the signature of that person and of each of his sureties (if any) shall be attested by a Judge of the High Court, a Magistrate, the Registrar of the High Court, or a constable.

“(5) When any person is admitted to or released on bail, the Judge of the High Court, Magistrate, or constable admitting or releasing him may require him to deposit with that Judge, Magistrate, or constable or with the Registrar of the High Court a sum of money (being not greater than the amount of the recognisance entered into in the bond). Any such sum so deposited with a Judge, Magistrate, or constable shall, as soon as reasonably possible after the deposit, be paid by the person with whom it was deposited to the Registrar of the High Court.

“(6) Where any person admitted to or released on bail has fully performed the conditions of his bond, the bond shall be void and any sum deposited by him pursuant to subsection (5) of this section shall be forthwith repaid to him but without any interest.

“(7) Where any person admitted to or released on bail fails to perform any condition of his bond, the Registrar of the High Court shall fix a place and time at and on which the High Court may consider the estreat of the bond, and shall, not less than 7 clear days before the time fixed, cause to be served on the person admitted or released on bail (if he can be found) and upon the sureties (if any) notice that, unless at the place and time fixed some person bound by the bond proves to the satisfaction of the High Court that it ought not to be estreated, the bond may be estreated.

“(8) If at the time and place fixed by the Registrar under subsection (7) of this section no sufficient cause to the contrary is shown, the High Court, on proof of non-performance of the bond, may make an order to estreat the bond to such amount as it thinks fit as to any person bound thereby upon whom notice is proved to have been served in accordance with subsection (7) of this section, and the whole or any part of any sum deposited under subsection (5) of this section may

(but otherwise without prejudice to the rights of Her Majesty the Queen under the estreated bond) be forfeited accordingly to Her Majesty the Queen:

“Provided that, if the Court is satisfied that the person admitted to or released on bail cannot be found, it may estreat the bond as against him, notwithstanding that the notice has not been served on him:

“Provided also that no bail bond shall be estreated save by a Judge of the Court.

“(9) Any sum payable in connection with any estreated bond shall be recoverable as if it were a fine.

“(10) Where any person has been admitted to or released on bail, any surety under the bail bond entered into by that person may, at any time and at any place, without warrant arrest and seize that person while he is not in the custody of the law and deliver him into the custody of a constable and, on any such delivery, the surety shall cease to be liable under the bond.”

10. Resident Commissioner may cultivate land on behalf of owners—(1) Section 462 of the principal Act is hereby amended by repealing subsection (4), and substituting the following subsection:

“(4) The Resident Commissioner may enter into an agreement in writing with any *Leveki Mangafaoa* for farming, or farming on shares, or cropping on shares with reference to any land being administered or dealt with under this Part of this Act, for such period and upon such conditions as to remuneration or otherwise as the Resident Commissioner thinks fit. Any such agreement shall be in the name of the Resident Commissioner, and shall be as effective as if he were the legal owner of the land mentioned therein.”

(2) The Schedule to the Niue Amendment Act (No. 2) 1968 is hereby consequentially amended by repealing so much thereof as relates to subsection (4) of section 462 of the principal Act.

11. Resident Commissioner may delegate powers—The principal Act is hereby further amended by repealing section 465, and substituting the following section:

“465. (1) The Resident Commissioner may from time to time by writing under his hand delegate any of his powers and functions under this Part of this Act to any officer of the Niue Public Service or to the Development Board constituted

and established under the Development Ordinance 1966, and any such officer or that Board may, subject to the control of the Resident Commissioner, exercise or perform the powers and functions so delegated accordingly.

“(2) Any delegation made pursuant to subsection (1) of this section shall be subject to any conditions or restrictions which the Resident Commissioner may, in his discretion, think fit to impose, and may at any time, by writing under his hand, be revoked or varied by the Resident Commissioner.

“(3) All things done by an officer or by the Development Board pursuant to any delegation under this section shall be as valid and effective as if they had been done by the Resident Commissioner and accordingly shall, where necessary, be deemed to have been so done.”

12. When enactment in force in Niue, amendments and regulations to be in force also—Section 676 of the principal Act is hereby amended by inserting in subsection (1), after the words “any such enactment”, the words “and every enactment passed in substitution for any such enactment”.

13. Other enactments in force in Niue to be read subject to this Act—Section 677 of the principal Act is hereby amended by omitting the words “other Act”, and substituting the words “other enactment”.

14. Acquisition of land for public purposes—The Niue Amendment Act (No. 2) 1968 is hereby amended by repealing section 16, and substituting the following section:

“16. Her Majesty the Queen, acting by and through the Minister or the Resident Commissioner acting with the consent of the Minister, may, for public purposes, purchase or otherwise acquire any Niuean land or any undivided interest therein, or acquire by grant, assignment, or otherwise any lease, easement, *profit à prendre*, or other limited right, title, estate, or interest of or in any such land.”

15. Public purpose for which land held may be altered or cancelled—(1) Section 17 of the Niue Amendment Act (No. 2) 1968 is hereby amended—

(a) By inserting, after the word “purchased”, the words “or otherwise acquired”:

(b) By omitting the word “altered”, and substituting the words “varied or cancelled”.

(2) Section 15 of the Niue Amendment Act (No. 2) 1968 is hereby repealed.

16. Adoption orders—(1) Section 99 of the Niue Amendment Act (No. 2) 1968 is hereby amended by inserting, after the words “shall have”, the words “both in Niue and in New Zealand”.

(2) Section 100 of the Niue Amendment Act (No. 2) 1968 is hereby amended—

- (a) By omitting from subsection (5) the words “in Niue”, and substituting the words “both in Niue and in New Zealand”:
- (b) By repealing subsection (6).

This Act is administered in the Department of Maori and Island Affairs.
