

# PUBLIC HEALTH ACT 1965

1965/24 – 29 January 1965

	PART 1		<i>Registration</i>
	PRELIMINARY		
1	Short title	24	Register
2	[Repealed]	25	Procedure and certificate of registration
3	Interpretation	26	Fees
		27	Cancellation of registration
		28	Offences
	PART 2		
	ADMINISTRATION OF PUBLIC HEALTH		<i>Provisions Covering all Classes of Food Premises</i>
4	[Repealed]	29	Requirements of food premises
5	Principal functions of Director	30	Medical examination
6	Powers of Director and duty of Police to assist	31	Cleanliness of persons handling food
7	Appointment of Inspectors		<i>Special Classes of Food Premises</i>
		32	Additional requirements
	PART 3	33	Bakehouses
	QUARANTINE	34	Meat and fish
8	Special functions of Director	35	Ice cream, milk ices and milk
9	Appointment of Isolation Stations		<i>Miscellaneous Provisions</i>
10	Offences	36	Special powers of Director
		37	Unlawful handling of food
	PART 4	38	Sale of unwholesome provisions
	NOTIFIABLE INFECTIOUS DISEASES	39	Unlawful interference with food and food premises
11	Interpretation		PART 7
12	Duty to notify the Director		SANITATION (BUILDINGS AND DWELLINGS)
13	Procedure on notification	40	Interpretation
14	Special powers of Director and offences	41	Requirements of buildings
15	Infecting any person with venereal disease	42	Offences (buildings)
16	Occupation of suspected or diseased persons restricted	43	Requirements of dwellings
		44	Overcrowding of dwellings prohibited
	PART 5	45	Offences (dwellings)
	CARE OF SICK PERSONS OTHER THAN IN HOSPITAL	46	Enforcement order (buildings and dwellings)
17	Duty to notify Director of persons in need of care	47	Closing order (buildings and dwellings)
18	Treatment by laymen restricted	48	Demolition order (buildings and dwellings)
19	Change of abode restricted	49	Closing orders and demolition orders to apply to food premises
20	Number of persons in sick room restricted		
21	Lighting of fire in sick room restricted		
22	Offences		
	PART 6		PART 8
	MANUFACTURE AND SALE OF FOOD	50-53	[Repealed]
	<i>Preliminary</i>		
23	Interpretation		

	PART 9	64	Language of public notice and notices
54-59	[Repealed]	65	Serving of notices and orders
	PART 10	66	Protection of persons acting under authority of Act
	METHYLATED SPIRIT	67	Compensation
60	Interpretation	68	Other Acts not affected
61	Offences	69	Offences (general)
	PART 12	70	Penalties (general)
	MISCELLANEOUS PROVISIONS	71	Laying poison
62	[Repealed]	72	Storage of drugs
63	Powers of High Court in respect of certain orders under this Act	73	[Spent]
		74	Application of fees and fines

---

PART 1  
PRELIMINARY

- 1 Short title**  
This is the Public Health Act 1965.
- 2** [Repealed]
- 3 Interpretation**  
(1) In this Act –  
“approved” means approved by the Chief Medical Officer;  
“Director” means the Director of Health and includes any Medical Officer and other officer of the Department of Health performing duties under this Act on behalf and under the authority of the Director of Health and includes also any Inspector of Health appointed under section 7;  
Provided that, when an Inspector of Health has been appointed for the specific purposes of one Part, reference to the Director of Health in that Part shall be taken as including reference to an Inspector so appointed only;  
“isolation station” means an isolation station appointed under section 9;  
“notice” means a notice in writing signed by the person authorised to give such notice and to be served as provided in section 65;  
“Director of Works” means the officer for the time being in charge of the Public Works Department.  
(2) Terms defined in any Part of this Act have the meaning so defined for the purposes of any other Part.

PART 2  
ADMINISTRATION OF PUBLIC HEALTH

- 4** [Repealed by 2004/270]
- 5 Principal functions of Director**  
The principal functions of the Director under this Act shall be –  
(a) To prevent, limit, and suppress infectious and other diseases;  
(b) To institute and carry out investigations in respect of public health;  
(c) Generally to take all such steps or, as the case may be, to advise the Cabinet on taking such steps, as may be necessary to secure the promotion and conservation of human health.

**6 Powers of Director and duty of Police to assist –**

(1) The Director shall have –

- (a) Power to enter at all reasonable times any dwelling, building, land or any other premises or place and inspect the same and to execute on it any works authorised under or on this Act;
- (b) All powers conferred on him for the purposes of any Part as specified in any such Part;
- (c) All other powers necessary to carry out his duties and functions under this Act.

(2) It shall be the duty of every constable to give the Director any assistance which he may require in the exercise of his duties and functions under this Act and, when requested by the Director so to do, to accompany him and to enter with him any premises or place.

**7 Appointment of Inspectors**

There may be appointed such number of Inspectors of Health as may be necessary for the administration and operation of this Act and any Inspector so appointed may be known as “Inspector of Health” or as “Mosquito Control Officer” or “Food Inspector”, as the case may be, or by any other name indicating the specific purposes (if any) for which he was so appointed.

## PART 3

## QUARANTINE

**8 Special functions of Director**

The Director shall confer with and advise the Cabinet in the administration and application of the sanitary measures permitted or prescribed, as the case may be, by the International Sanitary Regulations.

**9 Appointment of isolation stations**

(1) Cabinet may by public notice appoint any institution, building, premises or place to be an isolation station for the purposes of this Act, and any such appointment may be permanent or for any period or extended period as circumstances require.

(2) The boundaries of any isolation station so appointed shall be exactly defined in the public notice and the site of the station shall be marked off accordingly and clearly indicated by fences, hoardings, posters or in such other ways as the Cabinet may direct.

**10 Offences**

Every person who trespasses on any isolation station may, in addition to any penalty inflicted under this Act or the Niue Act 1966 be detained within the isolation station under an order issued by the Director under section 14(1)(d).

## PART 4

## NOTIFIABLE INFECTIOUS DISEASES

**11 Interpretation**

In this Part –

“carrier” means any person having in his blood, or in his nose or throat, or in his excretions, or in his discharges, or in his secretions, the specific infectious agent of any notifiable disease though he may exhibit no other sign or symptom of that disease;

“contact” means any person who has been exposed to risk of infection by a notifiable disease, when the length of time since such exposure does not exceed, in the opinion of the Director, the period or incubation of that disease;

“drug” means and includes any drug or medicine used in the treatment, prevention, investigation, or alleviation of any disease, illness, or injury affecting human beings;

“notifiable disease” means –

- (a) Tuberculosis, whether pulmonary, glandular or osseous or in any other form, and in any stage of development or course of medical treatment which, in the opinion of the Director is infectious;
- (b) Leprosy in all known forms of that disease;
- (c) Venereal diseases including syphilis, gonorrhoea and soft sore;
- (d) Any other infectious disease which Cabinet may declare on publication by public notice to be a notifiable disease;

“suspected person” means any person suspected to be suffering from a notifiable disease or to be a carrier or contact.

## **12 Duty to notify the Director**

(1) Every person who has reason to believe that he is a suspected person or that any other person, whether under his care and responsibility or not, is a suspected person, shall without delay notify the Director.

(2) Every person who knowingly fails to notify the Director as provided in subsection (1) commits an offence and shall be liable on conviction to a fine not exceeding 0.5 penalty units.

## **13 Procedure on notification**

On being notified as aforesaid the Director shall forthwith issue instructions for the medical examination of every suspected person and make arrangements for the medical treatment of every person found to be suffering from any notifiable disease or to be a carrier or contact and, where in his opinion necessary, for the isolation of any such person or any suspected person, as hereinafter provided.

## **14 Special powers of Director and offences**

(1) The Director shall have power –

- (a) To order any person to undergo such medical examination as he thinks fit and for that purpose to attend before him at such time and place as he may appoint;
- (b) To order any person to undergo such medical treatment in his home or in the hospital as the Director may prescribe;
- (c) To enter at all reasonable times any dwelling, building, land or any other premises or place where he has reason to believe that a suspected person may be and to conduct in it such investigation and such medical examination or treatment as he deems necessary;
- (d) To order any person to be admitted to and detained in such isolation station as he may direct, for such period of time or such extended period of time as he deems necessary.

(2) For the purposes of subsection (1), “person” means every person suffering from a notifiable disease, every suspected person, and every person who, in the opinion of the Director requires any observation, examination, or treatment necessary for the control of notifiable diseases.

(3) All orders issued by the Director under this section shall be in writing signed by him and any order of admission and detention issued under subsection (1)(d) shall, when delivered to the person named in it, be sufficient authority to that person and shall bind that person to receive and detain under the order, the person in respect of whom the order is made and not to discharge such person except on receipt of an order in writing to that effect signed by the Director.

(4) Any Medical Officer, Inspector, or constable may without any authority other than this section apprehend any person who attempts to evade detention or who leaves an isolation station without being discharged as provided in this section, and shall deliver or return, as the case may be, the person so apprehended to the officer in charge of the isolation station.

(5) Except to the extent to which any part of the isolation station may be open to visits by the public, no person shall visit any person detained under this section except with the written permission of the Director which may be given either generally or for any particular case and subject to any condition which the Director may think fit to impose, and every person found without such permission or in contravention of any condition attached to such permission on the site of any isolation station or visiting any person detained in it commits an offence and, in addition to any penalty inflicted under section 70, may be detained within the isolation station under an order under subsection (1)(d).

(6) Every person who fails to comply with any order made by the Director under subsection (1) or who escapes or attempts to escape from any isolation station, commits an offence and shall be liable on conviction to a fine not exceeding 0.5 penalty units.

## **15 Infecting any person with venereal disease**

Every person who knowingly infects any other person with a venereal disease or knowingly does or permits or suffers any act likely to lead to the infection of any other person with any such disease, commits an offence and shall be liable on conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding 1 penalty unit.

## **16 Occupation of suspended or diseased person restricted**

(1) Except with the written permission of the Director, no person who to his own knowledge suffers from any notifiable disease or is a suspected person shall engage, and no person shall knowingly employ any person so suffering or being a suspected person in any of the following occupations, that is to say –

- (a) The handling of food within the meanings of Part 6;
- (b) Any trade, business, or occupation connected with the supply, preparation or distribution of drugs or tobacco in any form;
- (c) Laundry work;
- (d) Tailoring;
- (e) Domestic service;
- (f) Nursing and midwifery;
- (g) Hairdressing;
- (h) Work in any store or shop;
- (i) Driving any vehicle used for passenger services within the meaning of Part 12 of the Transport Act 1965;
- (j) Work on board any ship or vessel;
- (k) Teaching or any other occupation involving close contact with children.

(2) Every person who fails to comply with this section commits an offence and shall be liable on conviction to a fine not exceeding 0.5 penalty units in the case of an individual, and 2 penalty units in the case of a company or other body corporate as employer.

## PART 5

### CARE OF SICK PERSONS OTHER THAN IN HOSPITAL

#### 17 **Duty to notify Director of persons in need of care**

Every person who has reason to believe that any other person, whether under his care and responsibility or not, is by reason of age, infirmity, or disease, living in a destitute or insanitary condition or without proper care or attention, shall without delay notify the Director.

#### 18 **Treatment by laymen restricted**

No person other than a Medical Officer or a nurse shall apply mechanical restraint to any person of unsound mind without the previous consent in writing of the Director.

#### 19 **Change of abode restricted**

No person who is seriously ill shall be removed from any dwelling to any other place (other than the hospital or any isolation station) without the previous consent in writing of the Director.

#### 20 **Number of persons in sick room restricted**

(1) Not more than 3 persons shall congregate in a sick room.  
 (2) Only persons in immediate attendance on a sick person shall sleep in such sick person's room and not more than 2 persons being so in attendance shall sleep in that room at one and the same time.

#### 21 **Lighting of fire in sick room restricted**

No fire shall be lighted in a sick room except in a properly constructed fireplace with a chimney attached.

#### 22 **Offences**

Any person who fails to comply with this Part commits an offence.

## PART 6

### MANUFACTURE AND SALE OF FOOD

#### *Preliminary*

#### 23 **Interpretation**

(1) In this Part, and subject to subsection (2) –  
 “bakehouse” means any place in which are prepared or baked for sale for human consumption bread, doughnuts, biscuits, cakes or confectionery, and includes any portion of any such premises used for the storage of yeast or flour or the kneading or working of dough;  
 “Certificate of Registration” includes every renewal of such certificate;  
 “engaging in the handling of food” means the handling of food as employer or employee or in any capacity whatsoever, whether permanently or temporarily and, if as employee, whether for remuneration or not;  
 “food” means every article used for food or drink by man other than drugs and water, and includes flavouring matters and condiments as well as every article used in the composition or preparation of food;

“food premises” means and includes –

- (a) any bakehouse or cake-kitchen;
- (b) any meat room;
- (c) any place used for the sale of meat or fish;
- (d) any place used for the storage of retail sale of milk;
- (e) any place used for the manufacture, packing, or sale of ice cream or milk ices;
- (f) any place used for the manufacture or bottling of cordials, syrups, aerated waters, or beverages;
- (g) any other premises or buildings or any room or other part of them or any place in or on which food is handled;

“handling of food” means taking part in the manufacture, preparation, storage, packing, carriage or delivery of food for sale, or in the retail sale of food;

“meat” means the edible parts of any mammal, fish, fowl, crustacean, or mollusc ordinarily used for human consumption and includes any food containing meat;

“sell” includes to barter and also includes to offer or attempt to sell or receive for sale or have in possession for sale or send forward for sale or deliver for sale or cause or suffer or allow to be sold, offered or exposed for sale, but refers only to selling for consumption or use by man, and to sell food includes to supply meals at any restaurant, hotel or boardinghouse;

“vehicle” has the same meaning as in the Transport Act 1965.

(2) Nothing in this Part shall be so construed as to apply to the growing and harvesting of any kind of fruit, vegetable or seed and the transporting of the same as harvested to any place for storage, sale, manufacture, or processing.

### *Registration*

#### **24 Register**

The Director shall compile and keep at his office a record of all registered food premises and of all certificates of registration issued with respect to such premises and also of the fees received.

#### **25 Procedure and certificate of registration**

(1) Application for the registration of any food premises shall be made to the Director and shall contain such particulars as the Director may in any individual case require.

(2) On receipt of an application for registration of any class of food premises the Director, if satisfied that the food premises comply with all the requirements of this Part pertaining to that class of food premises, shall register the food premises and issue to the applicant a certificate of registration for such period of time not exceeding one year, as the Director thinks fit.

(3) Any such certificate may be renewed in the same manner on application made on or before the date of its expiration.

(4) Any certificate of registration shall be posted conspicuously in the food premises to which it relates and a fresh certificate shall be issued on every renewal of registration.

**26 Fees**

(1) Cabinet may by public notice prescribe that fees shall be payable for the registration of any specified class or classes of food premises and shall determine the amount of any fee so prescribed.

(2) Every application for registration shall be accompanied by the amount of the fee (if any) so prescribed and determined.

**27 Cancellation of registration**

(1) The Director may by notice cancel and endorse any certificate of registration and direct the holder of the certificate to discontinue the handling of food in the food premises on and from a date specified in the notice, if he considers –

- (a) That the certificate had been obtained by a substantially false statement in the application; or
- (b) That the food premises do no longer comply with all the relevant requirements of this Part; or
- (c) That the food premises are not kept as required by this Part or that work is carried out or food handled in the food premises or in connection with the business conducted in the food premises contrary to the provisions of this Part.

(2) If the Director in the exercise of the powers conferred on him by subsection (1) directs the holder of the certificate to discontinue the handling of food he may make his direction known to the public in any way he thinks fit.

(3) Within 5 days of the receipt of such notice the holder of the certificate may file with the Registrar of the Court an application for relief from the requirements of the notice setting forth the extent and grounds of the relief sought.

(4) In hearing and determining any application so filed a Judge shall have and may exercise all the powers which he has in his ordinary jurisdiction and his determination shall be final.

(5) Pending the expiration of the time within which the application for relief may be lodged and the determination of the motion the notice shall be deemed to be suspended.

(6) On hearing the case the Judge may cancel the notice or may confirm it either absolutely or subject to such conditions and modifications as he thinks just.

(7) The power to cancel any certificate of registration under this section may be exercised in addition to any penalty which the holder of the certificate may have incurred under this Act or any other enactment for the time being in force.

**28 Offences**

Every person who engages in the handling of food in any food premises –

- (a) Without first having obtained a certificate of registration with respect to those particular food premises; or
- (b) After the date of expiry of such certificate; or
- (c) In the event of cancellation –
  - (i) If no application for relief is filed, on the expiration of 5 days after receipt of the notice or after the date specified in the notice whichever is the later;
  - (ii) If application for relief is duly filed, after the date on or from which the notice is confirmed by an order of the Court,

commits an offence and, unless he is guilty of contempt of the High Court within the meaning of section 101 of the Niue Act 1966 shall be liable on conviction to a fine not exceeding 0.5 penalty units in the case of an individual, and 2 penalty

units in the case of a company or other body corporate and, if there is a continuing one, to a further fine not exceeding 0.5 penalty units for every day on which the offence has continued.

*Provisions Covering all Classes of Food Premises*

**29 Requirements of food premises**

(1) No food premises shall be opened in any building, premises, or other places which are or have at any time been used for any purpose likely to affect injuriously the cleanliness of the food premises or the food handled in it.

(2) Buildings shall –

- (a) Be well constructed, in good repair, weatherproof, and shall offer no entrance or harbourage for rats, mice and other vermin;
- (b) Have approved means of lighting and ventilation;
- (c) Be provided with approved drainage:  
Provided that no drain or pipe carrying off faecal matter or sewage shall be approved if it has any opening within the food premises;
- (d) When adjacent to any dwelling, be separated therefrom by an approved solid wall.

(3) Floors shall be constructed of approved material suited to the process of work carried out there, and properly graded and drained.

(4) The internal surfaces of all walls shall be finished with an approved material having a smooth even surface capable of being readily cleaned and ceilings shall be of approved design.

(5) All staircases or passages in any food premises or leading to them shall be kept lime-washed or painted with not less than 2 coats of approved paint or varnish.

(6) All food premises shall be provided with –

- (a) Approved fly-proof cupboards or other receptacles for all the food or other products of the food premises and with sufficient metal receptacles for waste and refuse;
- (b) Tables and benches suitable for handling food and having an approved impervious surface free from cracks and capable of being easily cleaned;
- (c) An approved constant supply of clean water, basin, soap and hand towels for the washing of hands of food handlers.

(7) No dust bin shall at any time be placed within any food premises, and no food premises shall be in direct communication with any urinal, privy or water closet, or situated less than fifty yards from any pigsty or from any domestic animal.

(8) No animal shall be kept or allowed to be in any food premises.

(9) (a) No room forming part of the food premises and being used for their purposes shall serve during any period of the day or the night as a sleeping-apartment or as a living-apartment.

(b) Any room forming part of the food premises without being used for their purposes may serve as a sleeping-apartment or as a living-apartment, but if it is situated on the same level with any room used as food premises, only when effectually separated therefrom by a partition extending from the floor to the ceiling and provided with approved ventilation.

(10) All food premises shall be kept scrupulously clean and their grounds kept tidy and free from any accumulation of rubbish or other matter likely to harbour flies and other insects, rats, mice or other vermin.

(11) Food and every implement, article, utensil, tool of trade, bench, fitting, machine or other appliance, and every vehicle used for or in connection with the carriage or delivery of food shall at all times be kept clean and free from dust and foul odours and be protected as far as practicable against the access of flies and other insects, or of rats, mice and other vermin.

(12) All receptacles shall be emptied and cleaned at such intervals as may be necessary to prevent a nuisance arising from their contents and shall be kept covered except when being filled or emptied.

### **30 Medical examination**

(1) (a) Every person engaged or taking up engagement in the handling of food shall, before taking up such engagement, and once every year thereafter or at such shorter intervals as the Director may direct, present himself to the Director for a medical examination.

(b) The Director may exempt any person from compliance with the requirements of this section when the nature of his engagement in the handling of food obviates the necessity for such compliance.

(2) Every person, not being so exempted, who fails to comply with this section commits an offence and shall be liable on conviction to a fine not exceeding 0.5 penalty units.

### **31 Cleanliness of persons handling food**

(1) Every person shall, while handling food maintain his clothing, his hands, and his body clean and shall, before commencing work and every time after visiting any privy and before resuming work, wash his hands thoroughly with soap and clean water.

(2) No person who is, for the time being, suffering from any skin eruption or who is wearing unclean or medicated bandages shall handle food.

(3) No person shall spit or smoke or chew tobacco while handling food.

#### *Special Classes of Food Premises*

### **32 Additional requirements**

Without limiting in any way sections 29, 30 and 31 the following additional provisions shall apply with respect to the specific classes of food premises described hereinafter.

### **33 Bakehouses**

(1) Every bakehouse shall comply in all respects with the requirements hereinafter provided.

(2) The bakehouse shall be provided with a wooden or metal bench and racks, troughs, bins and cupboards of approved design and material for the storage of flour and all other articles of food or ingredients used in baking and all flour and other food shall be placed on a table, bench, shelf, rack, or any other stand or structure well above ground level.

(3) The bakehouse shall be used exclusively for the purpose of baking and for the storage of flour and other articles of food or ingredients for baking and for no other purpose.

(4) Every room or compartment in which flour is stored shall be free from damp, and flour and other food shall as far as practicable be protected from dust, vermin, and insects.

**34 Meat and fish**

(1) All premises used for the preparation of meat or fish for sale and every butcher's or fishmonger's shop for the retail sale of meat or fish and all work in connection therewith shall comply in every respect with the requirements hereinafter provided.

(2) The floor of any building so used shall be constructed of an approved impervious material which shall be carried up the walls to a height of not less than three inches in such a manner that angles between the floor and the walls are concavely rounded off.

(3) All floors shall be thoroughly cleaned with hot water at least once every working day and shall at all times be kept in a state of reasonable cleanliness.

(4) Tables, benches, shelves and all appliances with which meat or fish may come into contact shall, as far as practicable, be impervious to water and shall be kept clean.

(5) Every ventilation opening and every window shall be fitted with a covering of wire gauze or other material suitable for excluding flies.

(6) If required by the Director, a self-closing door shall be fitted in every doorway to such premises or shops so as to exclude flies.

(7) All meat and other articles of food except when being processed shall be adequately protected by storage in a refrigerator or other approved compartment or receptacle from contamination by dust, vermin, or insect.

(8) No bones or waste matter of any kind shall be kept longer than 12 hours in any such premises or shop.

(9) (a) No carcase or portion of a carcase shall, while being transported or delivered to or from any such premises or shop, be deposited on any roadway or wharf or on the deck of any vessel or on any similar surface or place open to traffic, unless the carcase or portion of it, as the case may be, is enclosed in a clean receptacle or cover;

(b) It shall not be necessary to cover any carcase or portion of a carcase that is suspended during transit so that no part of it can rest on such surface or place.

(10) No person shall transport any carcase or portion of a carcase in any vehicle unless it is by any approved method protected from contamination caused by coming into contact with any unclean portion of the vehicle.

(11) No person shall use for the carriage of meat any vehicle or receptacle which is not so constructed as to be easily cleaned and capable of being kept so closed or covered as to protect the meat being transported, from dust, flies and other sources of contamination.

**35 Ice cream, milk ices and milk**

(1) All utensils used for the manufacture, packing, or sale of ice cream or milk ices and all work in connection with it shall comply in every respect with the requirements hereinafter provided.

(2) All appliances with which any ice cream or milk ice may come into contact during its preparation, manufacture, or packing, shall be cleaned and sterilised by steam, boiling water, or other approved method at least once each working day.

(3) No person shall manufacture, store, or deposit any ice cream or milk ice for sale, or store, or deposit the ingredients thereof or any milk in any vessel which is not clean.

(4) No person shall use for transporting ice cream, milk ices, or milk any vessel unless such vessel is so constructed as to permit of every part of its interior

being seen and adequately cleaned, and unless it is provided with a lid or covering which protects the interior from dust, rain and contamination.

(5) Ice cream and milk ices for sale shall be kept in a separate compartment of a refrigerator or in a separate approved container within a refrigerator and any such compartment or container shall at all times be kept clean.

(6) No other kind of food or any other substance shall be placed or kept in any compartment or container –

(a) Containing at the same time ice cream or milk ices, or

(b) Not containing any ice cream or milk ices for the time being, but to be used again for containing the same.

(7) All dishes and servers used in the retail sale of ice cream and milk ices shall be made of metal and shall have no moving parts and shall, when not in actual use, be kept either in clear water or free from water in an approved covered receptacle made of impervious material and capable of being easily cleaned and sterilised.

(8) Ice cream, milk ices, and the cones or wafers or other containers in which ice cream or milk ices are sold, shall at all times be protected from contamination by dust and by flies and other insects.

(9) No person engaged in the manufacture, or packing, or in the sale of ice cream or milk ices shall permit his hands or arms, or any part of his clothing, to come into contact with any ice cream or milk ice.

(10) No person shall sell any ice cream or milk ice which, after having been once frozen, has run down or melted and has again been frozen.

#### *Miscellaneous Provisions*

### **36 Special powers of Director**

(1) The Director shall have power –

(a) To enter, inspect and examine at all reasonable times by day or night any food premises or any vehicle used in connection with the handling of food and to examine any food and any utensil used in the handling of food;

(b) To make such examination or inquiry and to take such samples of any food as he deems necessary for the control of compliance with this Part;

(c) To seize any food that in his opinion is unfit for human consumption.

(2) On seizing any food the Director shall forthwith apply to the Court for an order of forfeiture.

(3) (a) Without limiting section 69 and section 70 the Court on hearing the application may make such order as it thinks just for the restoration of any food seized or may order that the food shall be forfeited and any such food shall be forfeited to the Crown accordingly and may be disposed of in such manner as the Court directs.

(b) The Director may order any food seized to be destroyed prior to the making of a Court order when the food is so decayed or putrified that its restoration is not reasonably practicable.

### **37 Unlawful handling of food**

Every person commits an offence who handles food in any food premises, whether registered or not, which do not comply with all the relevant requirements of this Part or who handles food in a manner contrary to the requirements of this Part.

**38 Sale of unwholesome provisions**

Every person commits an offence and is liable on conviction to imprisonment for a term not exceeding one month or to a fine not exceeding 0.5 penalty units who sells, or exposes for sale, or has in his possession with intent to sell, any food or drink which he knows or might by the exercise of reasonable care have known to be unwholesome.

**39 Unlawful interference with food and food premises**

Every person not being a person engaged in the handling of food, who –

- (a) Interferes without lawful excuse with any food or the handling of it or with any thing or matter used in the handling of food so as to prevent any provisions of this Part from being complied with;
- (b) Who urinates, spits, smokes or chews tobacco in any food premises,

commits an offence.

## PART 7

## SANITATION (BUILDINGS AND DWELLINGS)

**40 Interpretation**

In this Part –

“building” means public buildings and business buildings;

“business building” means and includes –

- (a) Every shop, workshop, warehouse, store and other place in which goods are kept or exposed or offered for sale to dealers therein or to the public;
- (b) Every office or place in which business of any description is transacted and to which the public have access for that purpose; but, subject to section 49 does not include food premises within the meaning of Part 6;

“dwelling” means any structure, whether permanent or temporary, used for human habitation and includes any cookhouse belonging to the dwelling;

“public building” means –

- (a) Every building used as an assembly room or used for the purpose of public worship or public meetings;
- (b) Every building provided for the instruction, training, or use of the pupils of any school.

**41 Requirements of buildings**

Every building shall comply to the satisfaction of the Director with the following requirements –

- (a) Every room in any building shall be provided with means of ventilation so as to admit of a sufficient supply of fresh air and carry off and render harmless, as far as practicable, all fumes, gases, vapours, dust and other impurities arising from the use of the building;
- (b) Every room in any building shall be lighted to the extent that the Director considers necessary for the purpose for which such room is used;
- (c) Every part of any building shall be day by day kept in a clean state so as not to be injurious to health;
- (d) Every building and land belonging to such building shall be kept free from any leakage in any drain or sanitary convenience and

from any other nuisance which is offensive or likely to be injurious to health;

- (e) All land, sheds, and other outbuildings belonging to any building shall be kept in a state of reasonable cleanliness and refuse and rubbish shall be disposed of from time to time as circumstances require.

#### **42 Offences (buildings)**

(1) Every person who is responsible for compliance with section 41 (whether by law or by contract and whether by reason of his trade, occupation, office or employment) and who makes default in such compliance commits an offence and shall be liable on conviction to a fine not exceeding 0.5 penalty units and, if the offence is a continuing one, to a further fine not exceeding 0.5 penalty units for every day on which the offence has continued.

(2) Every person who does any act or thing likely to impair or lower the state of sanitary condition in any building commits an offence.

#### **43 Requirements of dwellings**

Every dwelling shall comply to the satisfaction of the Director with the following requirements –

- (a) The dwelling shall be provided with sufficient ventilation and approved natural lighting;
- (b) The dwelling including its movable contents shall be kept reasonably clean. All bedding and mats shall be regularly aired and gravel or leaf floors shall be renewed as circumstances require;
- (c) The dwelling shall be provided with a properly built and maintained latrine. Pit latrines shall be placed not less than twenty feet from any dwelling, building, or public place.  
Water seal latrines and septic tanks shall be placed not less than 10 feet from any dwelling, building or public place. Every latrine shall be kept thoroughly clean at all times;
- (d) Any enclosure for animals or birds belonging to the dwelling shall be placed not less than 66 feet from the dwelling and shall be properly kept and maintained;
- (e) Every dwelling and land belonging to such dwelling shall be kept free from any leakage in any drain or sanitary convenience and from any other nuisance which is offensive or likely to be injurious to health;
- (f) All land, sheds, and other outbuildings belonging to the dwelling shall be kept in a state of reasonable cleanliness and refuse and rubbish shall be disposed of as circumstances require.

#### **44 Overcrowding of dwellings prohibited**

The Director may by notice limit the number of persons who may sleep in one and the same room of any particular dwelling and for the purposes of this Part every dwelling shall be deemed to be overcrowded if the number of persons sleeping at the same time in any room exceeds the maximum number specified in the notice.

**45 Offences (dwellings)**

(1) Every person who uses or permits to be used any dwelling shall be responsible for compliance with this Part relating to dwellings and every person who uses or permits to be used any dwelling which does not comply with the requirements of section 43 or which is overcrowded commits an offence and, on conviction as provided in this section, shall be liable to a fine not exceeding 0.5 penalty units.

(2) Except as provided in subsection (3) on the hearing of any information laid against any such person under this section, a Judge after hearing the evidence shall, if the evidence supports the information, make an order directing the offender to comply with every provision in respect of which default has been made, within a time specified in the order and shall adjourn the hearing until some day after the time so specified and on such adjourned hearing shall not convict the offender unless he has wilfully failed to comply with the order made on the first hearing.

(3) If at any hearing of the information it is made to appear to the satisfaction of the Judge that the neglect or omission in respect of which the information is laid, was due to the physical incapacity of the offender or that compliance with any requirements of section 43 or section 44 is liable to involve undue hardship to the offender, the Judge may grant to the offender such exemption from the requirements of those sections or, as the case may be, such extension of time for compliance with them as, having regard to all the circumstances of the case, appears just and reasonable and any such exemption or extension may be so granted subject to any condition which the Judge deems fit to impose.

**46 Enforcement order (buildings and dwellings)**

In every case where –

(a) Default is made in complying with any requirements of section 41 or section 43; and

(b) The person responsible for so complying has departed from Niue without appointing any attorney, agent, or trustee to act in his stead in respect of his duties and liabilities under those sections,

the Judge, on application made by the Director, may make an order (an enforcement order) directing the Director of Works to enter upon the land and the dwelling or building, as the case may be, and, at the expense in all things of the responsible person, to carry out such work required by those sections and specified in the order as appears necessary in the interest of the community, and the amount of all such expenses shall be recoverable from that person as a debt due to the Crown.

**47 Closing order (buildings and dwellings)**

(1) If any building or dwelling is, by reason of its state of disrepair or for any other reason likely to be injurious to health, a Judge of the Court, on application made by the Director may, after hearing such evidence as he deems fit, make an order (a closing order) prohibiting the use or occupation of the dwelling or building or any part of it as the case may be, until the repairs, alterations, or other works specified in the closing order have been carried out by the person or persons named in the order to the satisfaction of the Director.

(2) The Judge shall, in the closing order, state the date on or before which the works specified in the order shall be carried out and shall adjourn the hearing until some day as soon as practicable after the time so specified.

- (3) On such adjourned hearing –
- (a) If a certificate issued by the Director is produced to the effect that the works specified in the closing order have been carried out to his satisfaction the Judge shall revoke the closing order;
  - (b) If no such certificate is produced the Judge may extend the time specified in the closing order and adjourn the hearing accordingly or make an order directing the Director of Works to enter upon the land and the dwelling or building, as the case may be, and, at the expense in all things of the person or persons named in the closing order to carry out the works specified in the closing order and the amount of all such expenses shall be recoverable from that person or those persons as a debt due to the Crown.

(4) In any order made under subsection (3) (b) the Judge shall declare that the closing order shall cease to have any force and effect on the issue of a certificate signed by the Director of Works that he has carried out the works specified in the closing order.

(5) The certificate so issued shall be handed over to the person or persons named in the closing order and a copy shall be filed with the Registrar of the Court.

#### **48 Demolition order (buildings and dwellings)**

(1) If any dwelling or part of it is permanently unfit for human habitation or any building or part of it is permanently unfit for use or occupation, a Judge, on application made by the Director, may, after hearing such evidence as he deems fit, make an order (a demolition order) prohibiting the use or occupation of the dwelling or building or any part of it, as the case may be, and requiring the person or persons named in the order to take down and remove any structure specified in the order to the satisfaction of the Director.

(2) The Judge shall, in the demolition order, state the date on or before which the works specified in the order shall be carried out and shall adjourn the hearing until some day after the time so specified.

- (3) On such adjourned hearing –
- (a) If a certificate issued by the Director is produced to the effect that the works specified in the demolition order have been carried out to his satisfaction, the Judge shall dismiss the case;
  - (b) If no such certificate is produced the provisions of section 47 (3) (b) shall apply with all necessary modifications.

(4) On completing the works as directed the Director of Works shall file with the Registrar of the Court a statement to the effect that the works have been so completed.

(5) The provisions of this section shall, with all necessary modifications, apply to the removal and destruction of any mat or other household article or of any business utensil.

(6) If any building or dwelling described in subsection (1) is deserted or if for any other reason no order under that subsection can be made, the Judge, on application made by the Director may, after hearing such evidence as he deems fit, make an order directing the Director of Works to enter and to demolish as provided in subsection (4) (b) and such provisions of this section as are applicable shall then apply with all necessary modifications.

#### **49 Closing orders and demolition orders to apply to food premises**

Notwithstanding section 40, section 47 and section 48 shall apply to all classes of building including food premises within the meaning of Part 6.

## PART 8

50-53 [Repealed by 10/63/1980]

## PART 9

54-59 [Repealed by 1996/209]

## PART 10

## METHYLATED SPIRIT

**60 Interpretation**

In this Part –

“methylated spirit” means any spirit which has been mixed with methyl-alcohol or with wood spirit, or to which any other substance has been added that has the like effect as methyl-alcohol or wood spirit in rendering such spirit unsuitable for human consumption and includes any spirit from which methyl-alcohol, wood spirit or such other substances has been unlawfully removed;

“spirit” means and includes alcohol and every other description of spiritous liquor.

**61 Offences**

Every person who consumes or attempts to consume or supplies to any other person for the purpose of consumption methylated spirit, whether such spirit has been subjected to any process of purification or not, and whether alone or in solution with any other liquid, or who has any such methylated spirit or solution containing methylated spirit in his possession for the purposes of consumption by himself or by any other person, commits an offence and shall be liable on conviction to imprisonment for a term not exceeding 3 months.

## PART 11

## MISCELLANEOUS PROVISIONS

62 [Repealed by 2004/270]

**63 Powers of High Court in respect of certain orders under this Act**

(1) In hearing and determining any application made by the Director for any enforcement order or for a closing order or a demolition order under this Act, a Judge shall have and may exercise all the powers which he has in his ordinary jurisdiction and his determination shall be final.

(2) The power to make any of the orders mentioned in subsection (1) may be exercised in addition to any penalty inflicted on any person for non-compliance with this Act or any other enactment for the time being in force.

**64 Language of public notice and notices**

(1) Every public notice given under this Act shall be in both the English and Niuean languages.

(2) All other notices, orders, forms, or other documents used for the purposes of this Act shall be in the English or Niuean language, or in both languages as circumstances require.

**65 Serving of notices and orders**

Where any notice has to be given or any order to be issued under this Act such notice or order may be served either by delivering the same personally to the person on whom it is to be served or by leaving the same at his usual place of abode or by posting the same either by ordinary letter or, where it is necessary or desirable that proof of the date of receipt be ensured, by registered letter, addressed to him at his usual place of abode or, as circumstances require, by affixing the same in some conspicuous place on the land to which it relates.

**66 Protection of persons acting under authority of Act**

No person who, while exercising any powers conferred on him by this Act, in good faith does or orders or causes to be done any act in pursuance or intended pursuance of any of the provisions of this Act shall be under any civil or criminal liability in respect of that.

**67 Compensation**

(1) No person injuriously affected by any act done in the exercise of any powers conferred by this Act shall be entitled to compensation.

(2) No person injuriously affected by the total or partial destruction of any building, dwelling, or thing under a demolition order under section 48 shall be entitled to compensation, if such destruction was necessary by reason of any default made in complying with this Act.

(3) If such destruction was necessary in the interest of public health and without any default so made, any person injuriously affected by it, shall be entitled to compensation from the Crown for any loss which he may have suffered as a result of such destruction.

(4) Any compensation claimed under subsection (3) shall be assessed and awarded by the Court and no compensation shall be assessed in excess of the actual market value of the building, dwelling (or part of it) or thing in respect of which the claim is made.

(5) In hearing and determining any claim for compensation a Judge shall have and may exercise all the powers which he has in his ordinary jurisdiction and his determination shall be final.

(6) Any compensation awarded to any person under this section shall constitute a debt due to him by the Crown and shall be payable out of the appropriate account of the public revenues of Niue.

**68 Other Acts not affected**

Nothing in this Act shall be so construed as to limit or derogate from the provisions of any other Act providing for building permits or for minimum requirements and the control of dwellings or buildings in respect of construction, sanitation, maintenance, repair or in any other respect.

**69 Offences (general)**

Every person commits an offence who –

- (a) Fails to comply with any order, notice or direction given to him by the Director under this Act;
- (b) Wilfully obstructs, hinders, or resists the Director of Works or any other person in the execution of any power conferred on either of those officers or that person by this Act;
- (c) Offends against or fails to comply with any condition, duty, or obligation imposed on him by this Act;

- (d) Does or omits, or causes or knowingly permits or suffers to be done or omitted, any act, matter or thing contrary to this Act;
- (e) Knowingly makes a substantially false statement in any application or in connection with any information which he may be required to furnish under this Act.

**70 Penalties (general)**

Every person who commits an offence against this Act for which no penalty is otherwise provided in this Act or in the Niue Act 1966, is liable to a fine not exceeding 0.5 penalty units.

**71 Laying poison**

Every person is liable to a fine of 0.5 penalty units who without lawful justification places any poison in any place so as to be a source of danger to human beings or to animals.

**72 Storage of drugs**

(1) For the purposes of this section, the term "drug" (as defined in section 11) includes –

- (a) Soaps and dusting powders; and
- (b) Disinfectants, germicides, antiseptics, and preservatives used for any purposes.

(2) Every person who has in his store or possession any drug for sale shall store it in such a manner that the container is protected from damage and shall do all things reasonably necessary to ensure that the contents are protected from deterioration.

(3) Every person commits an offence who knowingly sells or offers for sale any drug which has so deteriorated as to be harmful or dangerous to health.

(4) The provisions of section 36 shall apply with all necessary modifications.

(5) The Director may seize any drug which is or appears to be unwholesome, unclean, damaged, deteriorated, perished, or injurious to health, or which contains any decomposed organic substance.

(6) On seizing any drug as aforesaid the Director shall forthwith apply to the Court for an order of forfeiture.

(7) Without limiting the provisions of section 69 and section 70 the Court on hearing the application, may make such order as it thinks just for the restoration of any drug seized or may order that the drug shall be forfeited and any such drug shall be forfeited to the Crown accordingly and may be disposed of in such manner as the Court directs.

**73** [Spent]

**74 Application of fees and fines**

All fees, fines and other moneys received under this Act shall form part of the public revenues of Niue and shall be paid into the appropriate account.