[As Reported From the Island Affairs Committee]

House of Representatives, 21 August 1974.

Words struck out by the committee are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line.

Hon. Mr Amos

NIUE AMENDMENT

ANALYSIS

Title
1. Short Title and commencement
2. Amendments consequential on Niue
Constitution Act

3. Repeals and revocations consequential on Niue Constitution Act Schedules

A BILL INTITULED

An Act to amend the Niue Act 1966

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, 5 as follows:

- 1. Short Title and commencement—(1) This Act may be cited as the Niue Amendment Act 1974, and shall be read together with and deemed part of the Niue Act 1966* (hereinafter referred to as the principal Act).
- (2) This Act shall come into force on the date of the commencement of the Niue Constitution Act 1974.
 - 2. Amendments consequential on Niue Constitution Act—(1) The enactments specified in the First Schedule to this Act are hereby amended in the manner indicated in that Schedule.

*1966, No. 38 Amendments: 1968, Nos. 15, 132; 1970, No. 15; 1971, No. 143; 1973, No. 10

No. 51—2

(2) Every reference in any enactment not specified in the First Schedule to this Act, or in any agreement, deed, instrument, application, licence, notice, or other document whatsoever, shall, after the commencement of this Act, be read—

(a) In the case of a reference to the Executive Committee of Niue, as a reference to the Executive Council of

Niue Cabinet of Ministers of Niue:

(b) In the case of a reference to the Leader of Government, as a reference to the Premier of Niue:

(c) In the case of a reference to the Resident Commissioner 10 of Niue, as a reference to the *[Executive Council of Niue]* Cabinet of Ministers of Niue:

(d) In the case of a reference to the Niue Island Assembly or to the Island Assembly (except in the definition of the term "Ordinance" in section 2 of the principal 15 Act), as a reference to the Niue Assembly:

(e) In the case of a reference to an Ordinance (except in the definition of that term in section 2 of the principal Act), as a reference to an Act of the Niue Assembly:

(f) In the case of a reference to the Niue Assembly Account, as a reference to the Niue Government Account:

(g) In the case of a reference to the Chief Judge of the High Court, as a reference to the Chief Justice of that Court:

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(h) In the case of a reference to the New Zealand State Services Commission, being a reference in relation to the Niue Public Service, as a reference to the Niue Public Service Commission.

3. Repeals and revocations consequential on Niue Constitu- 30 tion Act—(1) The enactments specified in the Second Schedule to this Act are hereby repealed.

(2) The regulations, rules, and orders specified in the Third

Schedule to this Act are hereby revoked.

SCHEDULES

FIRST SCHEDULE

Section 2 (1)

PART I

	AMENDMENTS	OF	PRINCIPAL	Act
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Section Amended	Amendment
Section 2	By inserting, before the definition of the term "aerodrome", the following definition: "'Act' means an Act of the Niue Assembly:". New By inserting, after the definition of the term "Attorney-General", the following definition: "'Cabinet' means the Cabinet of Ministers of Niue established by Article 2 of the Constitution:". By repealing the definition of the term "Commission". By inserting, after the definition of the term "constable", the following definition: "The Constitution' means the Constitution of Niue, as set out in the Niuean language in the First Schedule to the Niue Constitution Act 1974 and in the English language in the Second Schedule to that Act:". By repealing the definition of the term "enactment" (as substituted by section 4 (2) of the Niue Amendment Act 1971), and substituting the following definition: "Enactment" has the same meaning as in Article 82 (1) of the Constitution:". By repealing the definition of the term "Executive Committee" (as inserted by section 4 (1) of the Niue Amendment Act 1971) land substituting the following definition: I Struck Out
	"Executive Council' means the Executive Council of Niue established by Article 2 (1) of the Constitution:". By repealing the definition of the term "Island Assembly" (as substituted by section 5 (1) of the Niue Amendment Act 1973). By repealing the definition of the term "Leader of Government" (as inserted by section 4 (1) of the Niue Amendment Act 1971).

Niue Amendment

FIRST SCHEDULE—continued

PART I-continued

Section Amended	Amendment
Section 2—continued	By inserting after the definition of the term "New Zealand", the following definition: "'Niue Assembly' or 'Assembly' means the Niue Assembly established by Article 16 of the Constitution:". By repealing the definition of the term "Niue Public Service", and substituting the following definitions: "'Niue Public Service' has the same meaning as in Article 82 (1) of the Constitution: "'Niue Public Service Commission' or 'Commission' means the Niue Public Service Commission estab- lished by Article 82 (1) of the Constitution:". By inserting, after the definition of the term "prescribed", the following definition: "'Premier' has the same meaning as in Article 82 (1) of the Constitu- tion:". By repealing the definition of the term "Resident Commissioner" (as substituted by section 4 (2) of the Niue Amendment Act 1971).
Section 4 and sections 5 to 14n (as enacted by section 3 of the Niue Amendment Act 1971)	By repealing these sections.
Section 15 Section 18	By repealing this section. By omitting from subsection (3) the words "the Resident Commissioner, or, where any Ordinance so provides, the Executive Committee", and substituting the words "the [Executive Council] Cabinet".
Section 20 Section 25	By repealing this section. By omitting from subsection (1) and also from subsection (3) the words "Resident Commissioner" wherever they occur, and substituting in each case the word
Section 28	"Premier". By omitting from subsection (2) the words "Resident Commissioner", and substituting the word "Premier".

PART I—continued

Section Amended	Amendment
Section 30 (as substituted by section 5 of the Niue Amendment Act 1971)	By repealing this section.
Sections 31, 31A (as inserted by section 3 of the Niue Amendment Act 1973), 32, 33, 34 (as substituted by section 4 of the Niue Amendment Act 1973), 35, 36 (as substituted by section 9 of the Niue Amendment Act 1971), 37 to 40, 41 (as substituted by section 10 (1) of the Niue Amendment Act 1971), 42 to 44, and 47	By repealing these sections.
Section 49 Section 52	By omitting from subsection (1) the words "Subject to the provisions of any Ordinance in that behalf, all Ordinances, regulations, Orders in Council, Proclamations, warrants, appointments, and other instruments and Acts", and substituting the words "Subject to the provisions of any Act in that behalf, all enactments (other than Acts of the Niue Assembly), warrants, appointments, and other instruments". By omitting from subsection (2) the words "Subject to the provisions of any Ordinance in that behalf, all Ordinances and regulations", and substituting the words "Subject to the provisions of any Act in that behalf, all regulations". By repealing this section. By inserting in subsection (1) after the word "Act" whenever it occurs (except
	where it last occurs), the words "of the Parliament of New Zealand". By repealing subsection (2), and substituing the following subsection: "(2) No bylaw made by a village Council under this section shall become law until it has been assented to by the [Executive Council] Cabinet."

PART I-continued

Section Amended		Amendment
Sections 53 to 61		By repealing these sections.
Section 66	*****	By repealing this section.
Section 70	*****	By repealing this section, and substituting
		the following section:
		"70. Rules of Court—The practice and
		procedure of the High Court, whether
		in its civil or criminal jurisdiction, shall be as prescribed by enactment."
Section 78		By repealing subsection (1) (f).
Section 83	*****	By repealing this section, and substituting
		the following section:
		"83. Court fees—The scale of costs and
		Court fees to be paid in all civil or crim-
		inal proceedings in the High Court shall
a		be as prescribed by enactment."
Section 109		By omitting from subsection (1) and also
		from subsections (2), (5), (6), (7), and
		(8) the words "Supreme Court" wherever
		they occur, and substituting in each case
		the words "Court of Appeal".
		By repealing subsection (3). By omitting from subsection (4) the words
		"Supreme Court at Auckland", and sub-
		stituting the words "Court of Appeal".
Sections 111 and	112	By repealing these sections.
Section 113		By omitting the words "On the sealing
		of the order granting leave to appeal",
		and substituting the words "Where an
		appeal is made to the Court of Appeal
		of New Zealand, pursuant to Article 51
		of the Constitution, against a final
		judgment of the High Court,". By omitting the words "Supreme Court".
		New Zealand at Auckland", and sub-
		stituting the words "Court of Appeal".
Section 114		By omitting the words "Supreme Court",
		and substituting the words "Court of
0 .1 445		Appeal".
Section 115	*****	By omitting the words "the Supreme Court
		shall, subject to this Act, be determined
		by regulations made under this Act", and
		substituting the words "the Court of
		Appeal shall, subject to this Act, be
		determined by the rules of the High Court or the Court of Appeal, as the
		case may be".
Section 116	•	By repealing this section.
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PART I-continued

Sec	tion An	nended	Amendment
Section	117		By omitting from subsection (1) and also from subsection (2) the words "Supreme Court" wherever they occur, and substituting in each case the words "Court of Appeal".
Section	118		By omitting the words "Supreme Court" wherever they occur, and substituting in each case the words "Court of Appeal".
Section	119 .		By omitting the words "Supreme Court" wherever they occur, and substituting in each case the words "Court of Appeal".
Section			By omitting from subsection (1) the words "When leave to appeal to the Supreme Court of New Zealand from any conviction is granted by the High Court", and substituting the words "When an appeal is made to the Court of Appeal of New Zealand from any conviction in the High Court".
Section	121 .		By omitting the words "Supreme Court" wherever they occur, and substituting in each case the words "Court of Appeal".
Section	122		By omitting the words "Supreme Court" where they occur for the first and third times, and substituting in each case the words "Court of Appeal".
Section	123		By omitting the words "Supreme Court" wherever they occur, and substituting in each case the words "Court of Appeal".
Section Section			By repealing this section. By omitting the words "save by way of appeal in accordance with the provisions of this Act in that behalf".
Section	229	····	By inserting in subsection (4), after the words "other Act", the words "of the Parliament of New Zealand (in force in) that extends to Niue".
Section	243		By omitting from subsection (1) the words "under the hand of the Resident Commissioner", and substituting the words "of the [Executive Council] Cabinet".
Section	244		By omitting from subsection (1) (b) (ii) and also from subsections (3) and (6) the words "Resident Commissioner", and substituting in each case the word "Premier".

PART I-continued

Section Amended	Amendment
Section 244A (as inserted by section 3 (1) of the Niue Amendment Act 1968)	By omitting from subsection (1) the words "the Minister of Justice, on the application of the Resident Commissioner and with the concurrence of the Minister of Island Affairs", and substituting the words "the *(Executive Council)* Cabinet". By omitting from subsection (1) the words "signed by him". By omitting from subsection (3) the words "the Minister of Justice and the Minister of Island Affairs think fit", and sub-
	stituting the words "the <i>(Executive Coun-cil)</i> Cabinet thinks fit".
Section 247	By omitting the words "the Resident Com-
Section 264	missioner or". By omitting from subsection (2) the word "Governor-General" wherever it occurs,
	and substituting in each case the (words "Executive Council") word "Cabinet". By omitting from subsection (2) the words "he thinks", and substituting the words
	"the [Council] Cabinet thinks".
Section 280	By omitting from subsection (1) the words "Resident Commissioner", and substituting the word "Premier".
Section 283	By omitting the word "Attorney-General", and substituting the <i>(words "Executive Council")</i> word "Cabinet".
Section 285	By omitting from subsection (1) the words "Supreme Court" wherever they occur, and substituting in each case the words
Section 286	"Court of Appeal". By omitting from subsection (2) and also from subsection (3) the words "Resident Commissioner with the con-
	currence of the Executive Committee of Niue", and substituting in each case the Iwords "Executive Council of Niue") word "Cabinet". By omitting from subsection (4) the words "Resident Commissioner, with such concurrence as aforesaid", and substituting the Iwords "Executive Council" word "Cabinet". By omitting from subsection (4) the words "or the Resident Commissioner, as the case may be" wherever they occur, and

PART I-continued

Section Amended	Amendment
Section 286—continued	substituting in each case the words "or the *(Executive Council)* Cabinet, as the case may be". By omitting from subsection (4) the words "by the Resident Commissioner", and
Section 296	substituting the words "by the Premier". By inserting after the words "all Acts", the words "of the Niue Assembly or of the
Section 321	Parliament of New Zealand". By omitting from subsection (1) (d) the words "the Resident Commissioner of Niue and".
Section 322 Section 461	By omitting from subsection (1) (d) the words "other Commissioner", and substituting the word "Commissioner". By repealing this section. By omitting from subsection (2) the words "his powers" and substituting the words
Section 462	"his powers", and substituting the words "the (Council's) Cabinet's powers". By omitting from subsection (2) (a) and also from subsections (3) and (5) the words "he thinks", and substituting in each case the words "the (Council) Cabi-
	net thinks". By omitting from subsection (4) (as substituted by section 10 (1) of the Niue Amendment Act 1970) the words "as if he were", and substituting the words "as if the [Executive Council] Cabinet were". By omitting from subsection (6) the words
	"the [Council] Cabinet considers".
	By omitting from subsection (7) the words "received by him", and substituting the words "received by the [Council] Cabinet".
	By omitting from subsection (8) the words "his share", and substituting the words "the (Council's) Cabinet's share".
Sections 465 and 467 Section 517 Section 518	By repealing these sections. By repealing paragraph (a). By omitting from subsection (1) the words "The Resident Commissioner may, by warrant under his hand and", and substituting the words "The {Executive Council} Cabinet may, under".
) D	Cabinet may, under .

PART I-continued

Section Amended	Amendment
Section 518—continued	By omitting from subsection (1) the words "he believes", and substituting the words "the **ICouncil** Cabinet believes". By repealing subsection (2), and substituting the following subsection: "(2) Any such appointment may be at any time revoked by the **IExecutive Council** Cabinet, by warrant under the Seal of Niue".
Section 540	By omitting the words "Supreme Court", and substituting the words "Court of Appeal".
Section 607	By repealing this section, and substituting the following section: "607. Treatment of person so detained—Provision as to the custody, care, treatment, visitation, and discipline of all persons so committed to medical custody may be made by the Niue
Section 615	Assembly, by Act." By omitting the words "or before the
Section 622	Resident Commissioner". By omitting from subsection (2) the word "Minister", and substituting the <i>(words Executive Council</i> ") word "Cabinet".
Section 627	By omitting from subsection (2) the words "authorised by him", and substituting the words "authorised by the *IExecutive Council* Cabinet".
Section 655	By omitting from subsection (1) the words "the Governor-General may from time to time, by Order in Council", and substituting the words "the Niue Assembly may from time to time, by Act".
Section 657	By omitting the words "the Governor- General from time to time by Order in Council", and substituting the words "the Niue Assembly from time to time,
Section 658	by Act". By omitting from subsection (1) (a) the words "regulations under this Act", and substituting the word "Act".
Section 659	By repealing subsection (3). By repealing the definition of the term "Niue Public Service".

PART I-continued

Section Amended	Amendment
Section 663 Section 664 (as substituted by section 12 of the Niue Amendment Act 1971)	By omitting from subsection (1) the words "The Governor-General in Council on the recommendation of the Commission may"; and substituting the words "The [Executive Committee] Cabinet, on the recommendation of the Commission, may, by notice in the Niue Gazette,". By omitting from subsection (1) and also from subsection (2) the words "the Minister" wherever they occur, and substituting in each case the words "the [Executive Council] Cabinet". By omitting from subsection (2) the words "his pleasure", and substituting the words "the pleasure of the [Executive Council] Cabinet". By omitting from subsection (3) the words "the Governor-General in Council, on the recommendation of the Minister, may", and substituting the words "The [Executive Council] Cabinet, on the recommendation of the Commission, may, by notice in the Niue Gazette,". By repealing this section. By repealing this section.
Section 665	By omitting from subsection (1) the word "Governor-General", and substituting the <i>[words "Executive Council"]</i> word "Cabinet". By omitting from subsection (4) the words "New Zealand Gazette", and substituting
Section 676	the words "Niue Gazette". By inserting in subsection (1), before the words "When any enactment", the words "Subject to Article 36 of the Constitution". By inserting in subsection (2), after the words "this section", the words "but
Section 726	subject to Article 36 of the Constitution,". By omitting the words "Order in Council", and substituting the word "Act". By omitting the words "that Order", and substituting the words "that Act".

PART I-continued

AMENDMENTS OF PRINCIPAL ACT-continued

Section Amended	Amendment
Section 727	By omitting the words "Without limiting the power to make regulations confined by section 49 of this Act, regulations may be made under that section providing", and substituting the words "The Niue Assembly may, by Act, provide".
Section 728	By repealing subsections (5) and (6), and substituting the following subsections: "(5) The Oath of Allegiance and the Judicial Oath shall be taken, before performing the functions of his Office as a Magistrate, by every person holding office by virtue of which he is a Magistrate within the meaning of section 247 of this Act (being a person appointed to that office after the commencement of this Act but not being a Judge of the Land Court or of the Land Appellate Court). "(6) The oaths to be taken under this section shall be taken before the Chief Justice or any other Judge of the High Court or the Premier."
First Schedule	By repealing this Schedule.

PART II Amendments of Niue Amendment Act (No. 2) 1968

Section Amended		Amendment
Section 2	•	By omitting from the definition of the term "public purpose" the words "by Parliament or".
Section 8	•••••	By omitting the words "Subject to any regulations which may be made in that behalf, the Minister, or the Resident Commissioner with the consent of the Minister", and substituting the words "Subject to any enactment, the [Executive Council] Cabinet".

PART II—continued

Amendments of Niue Amendment Act (No. 2) 1968—continued

Section Amended	Amendment
Section 9	By omitting from subsection (1) the words "The Minister", and substituting the words "Executive Council" word "Cabi-
Section 10	By omitting the words "the Minister", and substituting the words "the Executive Council Cabinet".
Section 11	By omitting the words "The Minister", and substituting the words "The Executive Council) Cabinet".
Section 12	By omitting from subsection (1) the words "the Minister", and substituting the words "the [Executive Council] Cabinet".
Section 14	By omitting from subsection (1) the words "The Minister", and substituting the words "The (Executive Council) Cabinet".
Section 16 (as substituted by section 14 of the Niue Amendment Act 1970)	By omitting the words "the Minister or the Resident Commissioner acting with the consent of the Minister", and substituting the words "the *[Executive Council]* Cabi-
Section 20	net". By omitting the words "the Minister" wherever they occur, and substituting in each case the words "the [Executive Council] Cabinet".
Sections 29 to 37 Section 43	By repealing these sections. By repealing subsection (1), and substituting the following subsection: "(1) The practice and procedure of the Land Court in all matters within its jurisdiction shall be as prescribed by
Section 44	enactment." By omitting from subsection (1) the words "authorised by him", and substituting the words "authorised by the **[Executive Council*] Cabinet".
Section 48	By omitting the words "the Governor-General", and substituting the words "the [Executive Council] Cabinet".
Sections 67 and 68 Section 73	By repealing these sections. By omitting from subsection (1) the words "The Governor-General may from time to time, by Order in Council," and sub- stituting the words "The Niue Assembly may from time to time, by Act,".

Niue Amendment

FIRST SCHEDULE—continued

PART II—continued

Amendments of Niue Amendment Act (No. 2) 1968—continued

Section Amended				Amendment
Section	86		were	By omitting the words "the Resident Commissioner, acting by and with the advice of the Executive Committee", and substituting the words "the **(Executive*)
Section	87		******	Council Cabinet". By omitting from subsection (1) the words "The Resident Commissioner, acting by and with the advice of the Executive Committee", and substituting the words "The [Executive Council] Cabinet".
Section	90			By omitting from subsection (1) the words "The Resident Commissioner, acting by and with the advice of the Executive Committee", and substituting the words "The (Executive Council) Cabinet".
Section	100			By omitting from subsection (3) the word "Attorney-General", and substituting the (words "Executive Council") word "Cabinet".
Section	104	*****		By repealing this section.

PART III Amendments of Niue Amendment Act 1971

Section Amended	Amendment
Section 14	By omitting from subsection (1) and also from subsection (2) the words "the Resident Commissioner", and substituting in each case the words "the *[Executive Council*] Cabinet". By omitting from subsection (3) and also from subsection (4) the words "he considers", and substituting in each case the words "the *[Executive Council*] Cabinet considers".

Section 3 (1)

SECOND SCHEDULE

ENACTMENTS REPEALED

- 1967, No. 13—The Lesotho Act 1967: section 3 (2). 1967, No. 14—The Republic of Botswana Act 1967: section 1967, No. 151—The Carriage by Air Act 1967: section 3 (3). 13—The Lesotho Act 1967: section 3 (2). 14—The Republic of Botswana Act 1967: section 3 (2).
- 14-The Maori and Island Affairs Act 1968: so much of 1968, No. the Schedule as relates to section 659 of the principal
- 1968, No. 1970, No. 1970, No.
- 47—The Swaziland Act 1968: section 3 (2).
 5—The Republic of Guyana Act 1970: section 3 (2).
 6—The Republic of The Gambia Act 1970: section 3 (2).
- 15—The Niue Amendment Act 1970: sections 4, 6, and 11. 1970, No.
- 1970, No. 16-The Tonga Act 1970: section 3 (2).
- 11-The Consular Privileges and Immunities Act 1971: 1971, No. section 12 (4).
- 1971, No. 30—The Republic of Sierra Leone Act 1971: section 3 (2). 1971, No. 143—The Niue Amendment Act 1971: Part I and sections
- 16, 19, 20, 26 (k), and 29.

 13—The Republic of Bangladesh Act 1972: section 5 (2). 1972, No.
- 14—The Republic of Sri Lanka Act 1972: section 3 (2). 1973, No.
- 1973, No. 10—The Niue Amendment Act 1973.

THIRD SCHEDULE

Section 3 (2)

REGULATIONS, RULES, AND ORDERS REVOKED

- The Diplomatic Immunities (Western Samoa Trade and Development Commissioner) Order 1967: clause 5 (S.R. 1967/110).
- The Niue Land Court Rules 1969: rule 50 (S.R. 1969/126).
- The Niue Reserved Enactments Order 1969 (S.R. 1969/127).
 The Consular Immunities Regulations 1969: regulation 5 (S.R. 1969/136).
- The Niue Reserved Enactments Order (No. 2) 1969 (S.R. 1969/206).
- The Niue Audit Regulations 1970: regulation 18 (S.R. 1970/103).
- The Niue Dental Regulations 1970: regulation 5 (S.R. 1970/104).
- The Niue Reserved Enactments Order 1970 (S.R. 1970/161).
- The Niue Airport Charges Regulations 1971: regulation 13 (S.R. 1971/203).
- The Niue Civil List Regulations 1972: regulation 11 (S.R. 1972/218).