

1955/70



THE NIUE ARMS REGULATIONS 1955

C. W. M. NORRIE, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington this 25th day of May 1955

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Cook Islands Act 1915, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

REGULATIONS

1. (1) These regulations may be cited as the Niue Arms Regulations 1955.
- (2) These regulations shall come into force on the day after the date on which they are first publicly notified (in such manner as he thinks fit) by the Resident Commissioner of Niue.
- (3) These regulations shall be in force in the Island of Niue only.

Interpretation

2. In these regulations, unless the context otherwise requires,—
 - “Ammunition” includes cartridges, cartridge cases, gunpowder, bullets, and shot:
 - “Explosive” includes any article of which an explosive forms part and which is capable of destructive effect by way of explosion:
 - “Firearm” includes any weapon from which a missile is discharged by the force of any explosive substance or by compressed air:
 - “Owner”, in relation to firearms, includes any person for the time being in possession thereof:
 - “Pistol” means any firearm the barrel of which, whether cut down or not, does not exceed 18 in. in length; and includes an automatic, a machine pistol, and a submachine gun.

Carriage or Possession of Arms, Ammunition, or Explosives

3. No person shall carry or be in possession of any firearm, ammunition, or explosive except for some lawful, proper, and sufficient purpose. In proceedings for an offence against this regulation the burden of proving the existence of such a purpose shall lie upon the accused.

Introduction of Arms and Ammunition

4. (1) No person shall bring or cause to be brought or sent into the Island of Niue any firearm or any ammunition or explosive save in pursuance of a permit issued to him for that purpose by the Resident Commissioner.

(2) No permit shall be issued under this regulation unless—

(a) The Resident Commissioner is satisfied that the applicant has adequate facilities for safe custody of the firearm or ammunition or explosive pending the sale thereof; and

(b) In the case of a firearm, it is brought or sent into the Island of Niue for sale to a specified person who is the holder of a permit in relation to that firearm issued to him under regulation 6 of these regulations.

(3) Where any firearm is brought or sent into the Island of Niue for sale to any specified person and is not delivered to that person within seven days after its arrival in the island, the person having possession of the same shall forthwith after the expiration of that period give written notice of that fact to a constable and shall either deliver the firearm to a constable for safe custody or dispose of the firearm in accordance with the written instructions of the Resident Commissioner or of any constable.

(4) In proceedings for a breach of subclause (1) of this regulation the burden of proving the existence of such a permit as aforesaid shall lie on the accused.

(5) Any permit issued under this regulation may be at any time revoked by the Resident Commissioner or by any person authorized by him in that behalf.

(6) If any constable or any officer of Customs has reasonable grounds to suspect that any firearm or any ammunition or any explosive has been brought into the Island of Niue in breach of this regulation or has been brought into the territorial waters of the Island of Niue and is intended to be brought into the Island of Niue in breach of this regulation, that constable or officer may seize the firearm or ammunition or explosive and detain the same. In any such case, such force may be used as is reasonably necessary for effecting the seizure of the goods.

Sale of Arms and Ammunition

5. (1) Except as hereinafter provided in this regulation, no person shall sell or expose for sale or keep for sale in the Island of Niue any firearms or any ammunition or any explosive.

(2) It shall be lawful for any person who has lawfully imported any firearm into the Island of Niue for sale to any specified person to sell the firearm to the last-mentioned person, provided the last-mentioned person is the holder of a permit in respect of that firearm issued under regulation 6 of these regulations.

(3) It shall be lawful for any person who has lawfully imported any ammunition or explosive into the Island of Niue to sell the same to any person, subject to such conditions as may from time to time be imposed by the Resident Commissioner either by public notice or by notice in writing to the person selling the same.

(4) Every person who imports any firearms or any ammunition or any explosive into the Island of Niue shall keep a correct account of all firearms, ammunition, and explosives imported by him and of the names and addresses of all persons to whom any firearms or ammunition or explosives are sold as aforesaid.

Permit for Purchase of Firearms, etc.

6. (1) No person shall, whether by way of purchase or in any other manner, procure the possession of any firearm, ammunition, or explosive save in pursuance of a permit issued to him in that behalf by a person authorized in that behalf by the Resident Commissioner.

(2) No person shall, whether by way of sale or in any other manner, deliver any firearm, ammunition, or explosive to any other person unless the last-mentioned person is the holder of a permit for the time being in force issued under this regulation authorizing him to procure the possession of the firearm, ammunition, or explosive.

(3) In proceedings for an offence against this regulation the burden of proving the existence and terms of any such permit as aforesaid shall lie on the accused.

(4) Every permit issued under this regulation shall remain in force for six days after the date of the issue thereof, and shall then expire:

Provided that any such permit may from time to time be extended for periods not longer than six days at any time, or may at any time during its currency be revoked by the person who issued the permit or by the Resident Commissioner or by any person authorized by him in that behalf.

Possession of Unregistered Firearms Prohibited

7. (1) On and after the commencement of these regulations no person shall be in possession for a period longer than seven days of any firearm unless—

- (a) He is registered as the owner thereof under these regulations; and
- (b) In the case of any pistol, he is authorized in writing by the Resident Commissioner to be in possession of the same.

(2) In any prosecution for an offence against subclause (1) of this regulation, if the accused is proved to have been in possession of the firearm, the burden of proving that he was registered as aforesaid or that he had not been in possession thereof for more than seven days shall lie on the accused.

(3) Registration under this regulation shall be effected by obtaining a certificate of registration from a person authorized in that behalf by the Resident Commissioner.

(4) Application for such a certificate must be made in writing, delivered at a police station or at the Resident Commissioner's office, and setting out—

- (a) The full name, abode, and occupation of the applicant; and
- (b) Such description of the firearm as may, so far as practicable, enable it to be identified.

(5) A person authorized to issue a certificate of registration may, before issuing the certificate, require the applicant to produce the firearm for his inspection, and may withhold the certificate in the meantime.

(6) No person shall be exempt from the necessity of becoming registered as the owner of a firearm under this regulation on the ground that he obtained that firearm in pursuance of a permit issued under these regulations.

(7) If any person who is registered as the owner of any firearm is, in the opinion of any person authorized to issue permits, not a fit and proper person to be in possession of the firearm, or if, in the opinion of any person authorized to issue permits, any firearm is unsafe, any person authorized to issue permits may, by notice in writing under his

hand, revoke the certificate of registration, and the person so registered shall upon demand surrender the certificate for cancellation to the person authorized to issue permits.

(8) On the revocation of a certificate of registration pursuant to subclause (7) of this regulation, the person to whom the certificate was issued shall cease to be registered as the owner of the firearm to which it relates, whether or not the certificate has been surrendered for cancellation, and shall surrender the firearm to the person revoking the certificate.

Unlawful Acquisition of Firearms, etc.

8. Every person commits an offence against these regulations who procures, or attempts to procure, or conspires to procure, the possession of any firearm, ammunition, or explosive by way of trespass or otherwise without lawful right or title thereto.

Presenting Firearms at Other Persons

9. Every person commits an offence against these regulations who, except for some lawful purpose, presents a firearm, whether loaded or unloaded, at any other person.

Arrest of Offenders

10. Any person reasonably suspected of having committed an offence against these regulations which is punishable by imprisonment may be arrested by any constable without warrant.

Search of Suspected Persons, Inspection of Firearms, and Seizure of Firearms, etc.

11. (1) If any constable has reasonable grounds to suspect that any person being in a public place is carrying or is in possession of any firearm, ammunition, or explosive in breach of these regulations, that constable may, without warrant, search that person, or any vehicle, package, or other thing there in his possession or under his control, and may detain that person for the purpose of the search, and may seize any such firearm, ammunition, or explosive, and detain the same.

(2) If any constable has reasonable grounds to suspect that any person has in his possession or under his control in any place any firearm, ammunition, or explosive, and that that person is of unsound mind, or is in a state of intoxication, or has attempted or threatened to kill or to do serious bodily injury to himself or any other person, the constable may, without warrant, search that person or place, and may detain that person for the purpose of the search, and may seize any firearm, ammunition, or explosive, and detain the same.

(3) Any constable may at any time require any person who is for the time being in possession of any firearm to produce the firearm to that constable for his inspection, and may detain any such firearm which he considers to be in an unsafe condition. Every person commits an offence against these regulations who fails to comply with any demand of a constable under this subclause.

Search of Land or Buildings for Firearms, etc.

12. If any constable has reasonable grounds to suspect that there is in any house, building, land, or other premises, or in any vessel, any firearms, ammunition, or explosives in respect of which any offence against these regulations or any other offence has been or is about to be committed or which may be evidence of any such offence, that constable, under warrant, may enter the house, building, land, premises, or vessel, by force if need be, and either by day or by night, and search the same or any part thereof, and may seize any firearms, ammunition, or explosives found therein, and detain the same.

Obstruction of Police

13. Every person commits an offence against these regulations who obstructs any person in the exercise of any right of search, seizure, or detention conferred by these regulations.

Disposal of Article Seized

14. (1) All firearms, ammunition, or explosives seized or surrendered under these regulations may be detained by the police for such period as the Resident Commissioner thinks fit, or may, in the discretion of the Resident Commissioner, become the property of Her Majesty, free and discharged from all right, title, estate, or interest possessed in respect thereof by any other person.

(2) In any case where any such firearms, ammunition, or explosives have become the property of Her Majesty as aforesaid, the Resident Commissioner may pay compensation out of the Niue Island Account:

Provided that no compensation shall be payable in respect of any article which is forfeited to the Crown under these regulations.

Amount of Compensation

15. The amount of compensation payable under any of the provisions of these regulations in respect of any firearms, ammunition, or explosives or other property shall not in any case exceed the actual market value thereof, and in case of dispute shall be determined by the High Court, whose decision shall be final.

Restoration of Articles Seized

16. On application, the Court may make such order as it thinks just and expedient for the restoration of any firearms, ammunition, or explosives seized and detained in pursuance of the right of inspection, search, seizure, or detention conferred by these regulations, not being firearms, ammunition, or explosives that have been forfeited to the Crown under these regulations.

Forfeitures

17. When any person is convicted of carrying or being in possession of any arms, ammunition, or explosives in breach of these regulations, the Court may, as part of the conviction, order that the arms, ammunition, or explosives shall be forfeited, and they shall be forfeited to the Crown accordingly, and may be disposed of in such manner as the Resident Commissioner directs.

Discharge of Firearms

18. Every person commits an offence against these regulations who without reasonable cause discharges any firearm to the damage or danger of any person or property; or who without reasonable cause discharges a firearm in or on any public place or so near thereto as to endanger, annoy, or frighten the passers by.

Use of Firearms by Youths

19. (1) No person shall sell or supply firearms or any kind of ammunition for a firearm to any person under the age of sixteen years.

(2) No person under the age of sixteen years shall use or carry or have in his possession any firearm or any kind of ammunition for a firearm.

(3) Every person who commits a breach of this regulation is liable to a fine not exceeding £10.

(4) Where any person under the age of sixteen years is convicted of a breach of subclause (2) of this regulation, the firearm so used or carried by him or had in his possession may, in the discretion of the Court, be forfeited to the Crown or be otherwise disposed of in such manner as the Court directs.

(5) Where on the hearing of any proceedings the age of the person charged is not proved, the Court may decide on its own view and judgment whether that person has attained the age of sixteen years.

(6) No person under the age of sixteen years shall be liable to imprisonment in respect of any fine imposed for a breach of subclause (2) of this regulation.

Carriage of Loaded Firearms on Vehicles

20. (1) Except for police or defence purposes, or except in pursuance of a permit issued to this effect by a person authorized by the Resident Commissioner in that behalf, every person commits an offence against these regulations who operates any vehicle on which is carried any firearm loaded with a cartridge or cartridges, whether in its breach, barrel, or magazine.

(2) In this regulation the term "vehicle" means a vehicle whether or not drawn or propelled by mechanical power or by any animal, and includes a bicycle.

Liability of Occupier of Premises

21. For the purposes of these regulations every person in occupation of any land or building on which any firearms, ammunition, or explosives are found shall, notwithstanding the liability of any other person, be deemed to be in the possession of the firearms, ammunition, or explosives, unless he proves that they were not his property and that they were in the possession of some other person.

Notice of Removal of Firearm from Cook Islands

22. Every owner of a registered firearm who intends to remove the firearm out of the Cook Islands shall give notice in writing of that intention to a constable or to any person authorized to issue permits not less than three clear days before that removal, and shall surrender to that constable or person the certificate of registration.

Notice of Loss, Theft, or Destruction of Registered Firearm

23. Whenever a registered firearm is lost, stolen, or destroyed, the owner of the firearm shall forthwith give notice in writing of the loss, theft, or destruction, as the case may be, of the firearm to a constable and supply to that constable all information in his possession respecting the loss, theft, or destruction as aforesaid.

Production of Certificates of Registration and Permits

24. Every person to whom any certificate or permit under these regulations has been issued and who is authorized to retain the same shall, on demand of any constable, produce that document forthwith for inspection and the firearm, ammunition, or explosive referred to therein.

Lost Certificates and Permits

25. Every certificate or permit issued under these regulations which has been lost or destroyed may, on proof of the loss or destruction to the satisfaction of any person authorized to issue such a certificate or permit, be replaced by a new certificate or permit on payment in the case of a certificate of the prescribed fee.

False Statements

26. Every person who wilfully makes any false statement relating to any of the particulars required to be known or registered under the provisions of these regulations is liable to a fine not exceeding £20.

General Penalty for Offences

27. Every person who commits a breach of these regulations for which no penalty is provided elsewhere than in this regulation is liable,—

- (a) In the case of an individual to imprisonment for a term not exceeding three months or to a fine not exceeding £50;
- (b) In the case of a body corporate, to a fine not exceeding £50.

Application of Regulations to Officers of Defence Forces or Police Force

28. Nothing in these regulations shall render unlawful the carriage or possession of firearms, ammunition, or explosives belonging to the Crown and lawfully in the possession of any member of the Defence Forces or of the Police Force.

Fees

29. (1) The following fees shall be payable under these regulations:

		s.	d.
For every original certificate of registration of a firearm	2	0	
For every certificate of registration of a firearm issued in replacement of a lost or destroyed certificate	1	0	
For every permit to import firearms or ammunition or explosives	2	6	

(2) No such certificate shall be issued until the fee has been paid.

Application of Fees, Fines, and Forfeitures

30. All fees and fines received pursuant to these regulations and the proceeds of the sale of any article forfeited to the Crown under these regulations shall be paid into the Niue Island Account and shall form part of the revenue of Niue Island.

Revocation

31. The Regulations Concerning Importation Into and the Sale of Firearms and Ammunition Within the Cook Islands, made by Order in Council on the 19th day of June 1916, and published in the *Gazette* of the 29th day of June 1916 at page 2205, are hereby revoked.

T. J. SHERRARD,
Clerk of the Executive Council.

EXPLANATORY NOTE

[This note is not part of the regulations, but is intended to indicate their general effect.]

These regulations regulate the importation into the Island of Niue and the sale and possession within that island of firearms and ammunition. They generally follow the provisions of the Arms Act 1920 in that respect.

The principal provisions of the regulations are as follows:

- (a) No person may carry or be in possession of any firearm or ammunition, except for some lawful purpose (regulation 3):
- (b) A permit must be obtained to bring any firearm or ammunition into the Island of Niue (regulation 4):
- (c) The importation for sale and the sale of firearms and ammunition is restricted to holders of permits in that behalf. A firearm may be imported only for sale to a specified person who holds a permit in respect of the same (regulation 5):
- (d) A permit is required for the purchase of a firearm or ammunition (regulation 6):
- (e) No person may be in possession of an unregistered firearm, whether in the Island of Niue at the commencement of the regulations or imported thereafter; and special authority is required for the possession of pistols. Provisions as to registration are set out in regulation 7.
- (f) It is an offence to obtain possession of any firearm or ammunition without proper authority (regulation 8):
- (g) It is an offence to present any firearm, whether loaded or not, at any other person (regulation 9):
- (h) Offenders suspected of having committed an offence against the regulations which is punishable by imprisonment may be arrested by any constable without warrant (regulation 10):
- (i) Provisions for the search of persons, land, and buildings where a breach of the regulations is suspected, and the seizure and detention of firearms and ammunition found, are contained in regulations 11 and 12. Regulation 11 also contains a provision authorizing constables to demand the production of firearms for inspection and to detain those which are found to be unsafe:
- (j) It is an offence to obstruct the police in carrying out powers of search conferred by the regulations (regulation 13):
- (k) Provisions as to the disposal of articles seized, payment of compensation, and forfeitures on conviction are contained in regulations 14 to 17:
- (l) The discharge of firearms to the danger or annoyance of persons is forbidden (regulation 18):
- (m) The sale or supply of firearms and ammunition to youths under sixteen years of age and the possession of firearms and ammunition by such youths is forbidden (regulation 19):
- (n) No person may carry a loaded firearm on any vehicle (regulation 20):
- (o) Notice of the removal from the Island of Niue of any registered firearm or of the loss, theft, or destruction of a registered firearm must be given to the police (regulations 22 and 23):
- (p) Registration certificates and permits and registered firearms must be produced for inspection by the police when required, and lost or destroyed certificates and permits may be replaced (regulations 24 and 25):
- (q) Except where some other penalty is provided, every person who commits an offence against the regulations is liable, in the case of an individual, to imprisonment for three months or a fine of £50, or, in the case of a body corporate, to a fine of £50 (regulation 27).

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 26 May 1955.

These regulations are administered in the Department of Island Territories.