



VAGAHAU NIUE ACT 2012

No. 321

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An Act to—

- (a) recognise Vagahau Niue as the official language of Niue; and
- (b) establish the Niue Language Commission in order to protect and promote Vagahau Niue.

- 1 **Title**
This is the Vagahau Niue Act 2012.

2 Commencement

This Act comes into force on the day after the date on which it becomes law in accordance with Article 34 of the Constitution.

**Part 1
Preliminary matters**

3 Interpretation

- (1) In this Act, unless the context otherwise requires,—
“Commission” means the Niue Language Commission established by section 8;
“Department” means the Department of Tāoga Niue;
“member” means a member of the Commission;
“Minister” means the Minister who is responsible for the Department;
“Vagahau Niue” means the Niue language.
- (2) If there is any conflict between the Vagahau Niue version and the English version of this Act, the Vagahau Niue version prevails.

4 Act binds the Government

This Act binds the Government.

**Part 2
Recognition of Vagahau Niue**

5 Vagahau Niue the official language of Niue

- (1) Vagahau Niue is the official language of Niue.
- (2) A person may use Vagahau Niue as of right for all official and legal purposes in Niue, without any requirement to produce a translation in any other language, unless a law expressly provides otherwise.

6 Reports to the Assembly to be in Vagahau Niue and English

- (1) Every report required by law to be made to the Assembly must be in Vagahau Niue and also in the English language.
- (2) However, the Assembly may, by resolution, determine that any report be in Vagahau Niue or the English language only.
- (3) If, in accordance with subsection (2), a report is made to the Assembly in 1 language only,—
(a) that report must be translated into the other language as soon as practicable; and
(b) a copy of the translated report must be tabled before the Assembly at the first available meeting.

7 Commission may certify interpreters and translators

- (1) The Commission may grant a certificate of competency in Vagahau Niue to any person who—
(a) applies to the Commission for that certificate; and
(b) satisfies the Commission that he or she is qualified to be a holder of that certificate.
- (2) Every certificate of competency in Vagahau Niue must be one of the following 3 kinds:
(a) a certificate of competency in the interpretation of Vagahau Niue; or

- (b) a certificate of competency in the translation of Vagahau Niue; or
 - (c) a certificate of competency in the interpretation and translation of Vagahau Niue.
- (3) The Commission must prepare criteria by which competence in the interpretation or translation of Vagahau Niue is to be assessed for the purposes of determining whether an applicant for a certificate of competency is qualified to hold one.
- (4) Criteria prepared in accordance with subsection (3) must be set out in regulations made under this Act.

Part 3

Establishment of Niue Language Commission

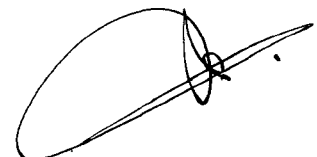
8 Establishment of Niue Language Commission
The Niue Language Commission is established.

9 Commission's status and powers

- (1) The Commission has—
- (a) the statutory powers conferred by this Act and any other Act; and
 - (b) the powers necessary to enable it to perform its functions.
- (2) The Commission may exercise its powers only for the purpose of performing its functions.

10 Commission's functions

- (1) The Commission's functions are—
- (a) to promote the use of Vagahau Niue; and
 - (b) to grant certificates of competency in Vagahau Niue in accordance with section 7; and
 - (c) to prepare criteria by which competence in the interpretation or translation of Vagahau Niue is to be assessed for the purposes of section 7; and
 - (d) to provide advice to the Government on policies and law to support Vagahau Niue; and
 - (e) to advise the Government on matters relating to the use of Vagahau Niue; and
 - (f) to assist the Government in developing Vagahau Niue programmes for study at early childhood, primary, secondary, tertiary, and continuing education levels in Niue and abroad; and
 - (g) to conduct regular surveys of community language attitudes and language use; and
 - (h) to coordinate views on the status, form, and usages of Vagahau Niue; and
 - (i) to inform and advise the public on the appropriate form of Vagahau Niue; and
 - (j) to make systematic decisions on orthography, standardisation, and modernisation; and
 - (k) to coordinate the implementation of language decisions within Government departments and in the community; and
 - (l) to promote and support research on Vagahau Niue; and
 - (m) to review translations submitted to it for scrutiny and to endorse works in Vagahau Niue before their publication; and
 - (n) to publish information on Vagahau Niue, material about Vagahau Niue, and works in Vagahau Niue; and



- (o) to promote and assist coordination of the use of Vagahau Niue in Niue communities abroad, both with those communities and through New Zealand government agencies; and
 - (p) to serve as the liaison agency between Niue and language commissions and similar organisations abroad which are concerned with the development of language; and
 - (q) to carry out such other functions and duties relating to Vagahau Niue as may be assigned to it by the Government.
- (2) The Commission is the final authority on the use of Vagahau Niue.

11 Membership of Commission

- (1) The Commission consists of—
- (a) three members selected and appointed by Cabinet; and
 - (b) the Director of the Department (as a non-voting member); and
 - (c) the Director of Education (as a non-voting member); and
 - (d) the chairperson of the Niue Council of Women; and
 - (e) the chairperson of the Niue Youth Council.
- (2) Of the 3 members selected and appointed by Cabinet, one must be a representative of the churches of Niue.

12 Qualifications of members

To be qualified to be selected and appointed by Cabinet in accordance with section 11(1)(a), a person must—

- (a) have his or her primary residence in Niue; and
- (b) be widely regarded as being well-versed in either—
 - (i) Niue culture and heritage; or
 - (ii) matters of the Department; and
- (c) through his or her background, knowledge, or experience, be specially qualified in Vagahau Niue, including reading and writing it.

13 Further provisions relating to Commission and its members

The Schedule applies to the Commission and its members.

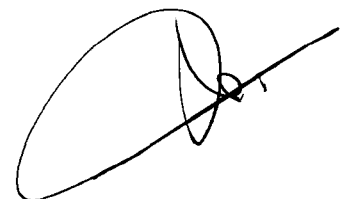
**Part 4
Miscellaneous matters**

14 Regulations

- (1) Cabinet may make regulations for the purposes of this Act.
- (2) Regulations made under this Act may set fees.

15 All references to “Leveki Mangafaoa” amended

All enactments that use the term “Leveki Mangafaoa” are amended by omitting “Leveki Mangafaoa” in each place where it appears and substituting in each case “Leveki Magafaoa”.



Schedule
Further provisions applying to Commission

1 Procedure for appointing members

- (1) Each of the members must be appointed by Cabinet.
- (2) The procedure for Cabinet selecting and appointing persons in accordance with section 11(1)(a) is as follows—
 - (a) the Director of the Department must recommend suitably qualified members of the public to Cabinet, setting out the relevant background, qualifications, and experience of each candidate; and
 - (b) Cabinet must appoint the candidate or (depending upon the number of vacancies) candidates that it considers is most qualified to be a member of the Commission.
- (3) The procedure in subclause (2) applies each time there is a vacancy in the membership of a person referred to in section 11(1)(a).

2 Effect of vacancies and validity of members' acts

- (1) A vacancy in the membership of the Commission does not affect—
 - (a) the validity of any Commission decision; or
 - (b) the powers and functions of the Commission.
- (2) The acts of a person as a member are valid even if—
 - (a) the person's appointment was defective; or
 - (b) the person is not qualified to be a member.

3 Term of appointment

- (1) A member selected and appointed by Cabinet in accordance with section 11(1)(a) may be appointed for 3 years or any shorter period of time specified by Cabinet.
- (2) A member may be reappointed.

4 Duties of members

- (1) A member of the Commission must act—
 - (a) in good faith; and
 - (b) with reasonable care, diligence, and skill; and
 - (c) with honesty and integrity; and
 - (d) in accordance with the Niue Public Service Code of Conduct.
- (2) The duties of members are owed to Cabinet and do not provide any ground of action for any other person.

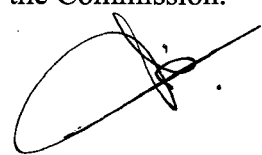
5 Collective duties of Commission

The Commission must—

- (a) not contravene this Act; and
- (b) act in a manner consistent with the objectives and functions of the Commission; and
- (c) perform its functions efficiently and effectively and in a manner consistent with the spirit of service to the public.

6 Liability of members

No member is liable for any act or omission done, in good faith, in the performance or intended performance and exercise of the functions and powers of the Commission.



7 Removal from office

- (1) Cabinet may remove a member from the Commission by written notice to the member for any of the following reasons proved to the satisfaction of the Cabinet—
 - (a) breach of the member's duties or the Commission's collective duties under this Act; or
 - (b) failure or inability to perform, or inadequate performance of, the member's duties and responsibilities as a member; or
 - (c) misconduct by the member; or
 - (d) any other just cause.
- (2) Cabinet must give the member a reasonable opportunity to be heard on the proposal to remove the member.
- (3) The notice of removal must state the reason for the removal.

8 Member ceasing to hold office

A member ceases to hold office if he or she—

- (a) is removed from office in accordance with clause 7; or
- (b) dies; or
- (c) resigns by giving written, signed notice to Cabinet; or
- (d) fails to attend 3 consecutive meetings of the Commission without the prior permission of the chairperson; or
- (e) ceases to have his or her primary residence in Niue.

9 No compensation for ceasing to hold office

A member is not entitled to any compensation or other payment or benefit relating to his or her ceasing for any reason to hold office as a member of the Commission.

10 Chairperson and deputy chairperson

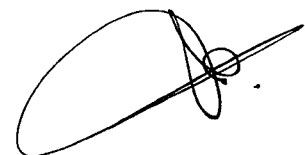
- (1) Cabinet may appoint one of the members as the chairperson, and another member as the deputy chairperson, of the Committee by written notice to the Committee.
- (2) However, neither the Director of the Department or the Director of Education must be appointed as chairperson or deputy chairperson.
- (3) In the case of the absence or incapacity of the chairperson, the function of the chairperson must be performed by the deputy chairperson.

11 Meetings of Commission

- (1) The Commission must meet—
 - (a) to the extent required in order for it to fulfil its functions; and
 - (b) at least 4 times in each 12 month period.
- (2) The Commission must meet at the time and place determined by the chairperson.
- (3) The quorum for a meeting of the Commission is 3 voting members.
- (4) Subject to this Act and any regulations made under this Act, the Commission may regulate its proceedings as it thinks fit.

12 Decisions of Commission

- (1) All decisions made by the Commission must be made by consensus if this can be obtained.
- (2) If there is no consensus, the decision must be made by vote.
- (3) The Director of the Department and the Director of Education do not have a vote.
- (4) At any meeting, the person presiding has a deliberative vote and, in the case of an equality of votes, a casting vote.



13 Remuneration of members

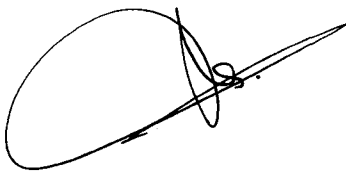
- (1) A member is entitled to receive remuneration for services as a member at a rate and of a kind set by regulations made by Cabinet.
- (2) However, the following office holders are not entitled to any remuneration for services as a member of the Commission in addition to the member's remuneration in respect of that office—
 - (a) a Judge:
 - (b) a member of the Assembly:
 - (c) an employee (including a director) within any part of the Niue Public Service who is acting as a member of the Commission as a representative of all or any part of the Niue Public Service.

14 Annual report

- (1) The Commission must, before 31 March in each year, give a written report to the Minister on the operations of the Commission in the preceding year.
- (2) The report must be in Vagahau Niue and the English language.
- (3) The Minister must table a copy of the report before the Assembly at the first available meeting.

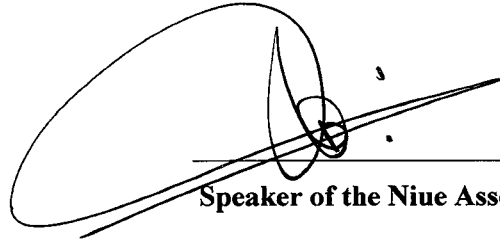
15 Resources and facilities

- (1) The Department must provide the resources and facilities that are necessary for the Commission to fulfil its functions.
- (2) The Government must allocate sufficient funding to allow the Commission to—
 - (a) fulfil its functions; and
 - (b) maintain the services, on a contract or consultancy basis, of an appropriate number of interpreters and translators who have been granted a certificate of competency under section 7.
- (3) The interpreters and translators of the Commission must be remunerated at the same base rate as a Commissioner of the Niue High Court and the remuneration is payable from the Niue Government Account without further appropriation than this clause.

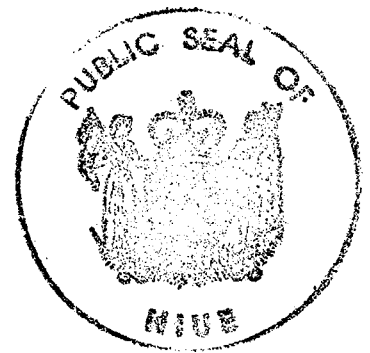
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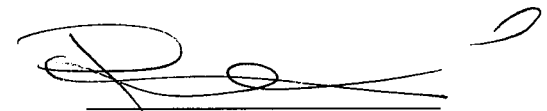
I, **AHOHIVA LEVI**, Speaker of the Niue Assembly, certify that the requirements of Article 34 of the Niue Constitution have been complied with.

SIGNED AND SEALED at the Assembly Chambers this 12th day of September 2012.


Speaker of the Niue Assembly

COUNTERSIGNED in the presence of the Speaker.




Clerk of the Niue Assembly

This Act was passed by the Niue Assembly on the 16th day of July 2012.
This Act is administered by the Department of Tāoga Niue.