

## **PUBLIC EMERGENCY REGULATIONS 2004**

### **Arrangement of provisions**

<b>Provision number</b>		<b>Page number</b>
1	Short Title and Commencement .....	1
2	Interpretation .....	1
3	Powers of Cabinet .....	1
4	Powers of Ministers.....	2
5	Appointment of Officers .....	2
6	Evacuation of Premises and Places .....	3
7	Entry on Premises.....	3
8	Closing of Roads and Public Places.....	3
9	Removal of Vehicles .....	4
10	Requisitioning Powers.....	4
11	Compensation Payable where property requisitioned.....	4
12	Protection from Liability .....	5
13	Penalty for Offences.....	5
	SCHEDULE.....	5

### **Public Emergency Regulations 2004**

**PURSUANT to Section 3 of the Public Emergency Act 1979, the Ministers of Cabinet by warrant made the following regulations:**

#### **1 Short Title and Commencement**

- (1) These Regulations may be cited as the Public Emergency Regulations 2004.
- (2) These Regulations shall be deemed to have entered into force on 8 January 2004.

#### **2 Interpretation**

- (1) In these regulations, unless the context otherwise requires-

“Cabinet” means the Cabinet of Ministers

“Civil defence” means the measures necessary or desirable for the safety of the public and which are designed to guard against, prevent, reduce, or overcome the effects or possible effects of any cyclone, explosion, earthquake, eruption, tsunami, land movement, flood, storm, tornado, serious fire, leakage or spillage of any dangerous gas or substance, or other happening that causes or may cause loss of life or injury or distress to persons or in any way endangers or may endanger the safety of the public in Niue; and includes the planning, organisation, co-ordination, and implementation of such measures and the conducting of, and participation in, training for such purposes:

“National Disaster Council” means the national disaster management organisation established by and constituted by Cabinet:

#### **3 Powers of Cabinet**

- (1) When a proclamation of emergency is in force Cabinet shall have power to:

- (a) exercise and perform such functions, duties, and powers with respect to civil defence as are conferred or imposed by these Regulations any other Act, and such duties in relation to the administration of these Regulations.
- (2) Without limiting the generality of the provisions of sub-regulation (1) of this Regulation, when a proclamation of emergency is in force Cabinet shall, under the chairmanship of the Deputy Premier have the following specific functions –
  - (a) The co-ordination of the planning and execution generally of civil defence measures:
  - (b) The taking of all steps necessary to provide, or to arrange the provision of, or otherwise to render readily available, personnel, material, and services adequate for the effective carrying out of civil defence measures:
  - (c) The direction and control for the purposes of these Regulations of personnel, material, and services available and at his disposal for civil defence purposes.
- (2) When a proclamation of emergency is in force all Government Department requisition authorisations may be suspended by Cabinet.
- (3) When a proclamation of emergency is in force, all relief supplies, equipment and other items brought into Niue for the Government distribution shall only be released upon written authorisation from the appropriate Minister.

#### **4 Powers of Ministers**

- (1) When a proclamation of emergency is in force, the Cabinet of Ministers shall assume portfolios as contained in the Schedule.
- (2) In the exercise of his functions, the Minister shall have power to--
  - (a) Co-ordinate the use of, and during a proclamation of national emergency use, the personnel, material, and services made available by Departments, Village Councils, organisations, and other persons for the purposes of civil defence, and in particular, without limiting the generality of the foregoing provisions of this paragraph, for—
    - (i) the preservation of peace and order;
    - (ii) securing and regulating the supply and distribution of food, water, fuel, light and other necessities;
    - (iii) maintaining the means of transit, transport or locomotion; and
    - (iv) any other purposes essential to the maintenance of public safety, order and the life of the community
  - (b) Enter into arrangements with any person whereby that person gives or undertakes to give his services or those of his staff, whether individually or in units under the control of that person, for the purpose of carrying out such civil defence measures as may be agreed upon:
  - (c) Devise, promote, and carry out, or cause to be carried out, research and investigations into matters relating to civil defence:
  - (d) Issue or cause to be issued warnings of hazards that might lead to or worsen a civil defence emergency:
  - (e) Disseminate information and advice on matters relating to civil defence.

#### **5 Appointment of Officers**

- (1) A Minister may from time to time during a proclamation of emergency appoint persons to undertake work necessary for –
  - (a) the preservation of peace and order;

- (b) securing and regulating the supply and distribution of food, water, fuel, light and other necessities;
- (c) maintaining the means of transit, transport or locomotion; and
- (d) any other purposes essential to the maintenance of public safety, order and the life of the community

for his respective portfolio in accordance with the Schedule.

(2) Any person appointed under sub-regulation (1) of this Regulation shall hold office on such terms as shall be specified by the Minister and may from time to time be re-appointed.

(3) Any person appointed under sub-regulation (1) of this Regulation may be removed from office by the Minister for disability, neglect of duty or misbehaviour or may at any time resign his office.

(4) No person, other than a person employed by the Niue Public Service Commission, shall be deemed to be employed in the Niue Public Service by reason of appointment under sub-regulation (1) of this Regulation.

(5) All persons appointed under sub-regulation (1) of this Regulation shall be remunerated appropriately.

## **6 Evacuation of Premises and Places**

(1) Where a proclamation of emergency is in force, and in the opinion of Cabinet the action authorised by this sub-regulation is urgently necessary for the maintenance of public safety, order and life of the community Cabinet may, without any further authority from this sub-regulation, require the evacuation of any premises or place (including any public place), or the exclusion of persons or vehicles from any premises or place (including any public place) within the area in respect of which the proclamation of emergency is in place.

(2) Every person commits an offence against these Regulations who wilfully fails to comply with any direction given to him under sub-regulation (1) of this Regulation.

(3) It shall be a defence to any proceedings for an offence against this Regulation if the Court is satisfied that Cabinet did not have reasonable grounds for believing that in all the circumstances of the case the requirement was urgently necessary for the maintenance of public safety, order and life of the community.

## **7 Entry on Premises**

Where a proclamation of emergency is in force, a Minister, Chief of Police or any person acting under the authority of such persons may enter upon, and if necessary break into, any premises or place within the area in respect of which the proclamation of emergency is in force, where he believes on reasonable grounds that such action is necessary for the maintenance of public safety, order and life of the community and securing and regulating the supply and distribution of food, water, fuel, light and other necessities.

## **8 Closing of Roads and Public Places**

(1) Where a proclamation of emergency is in force a Minister, Chief of Police or any person acting under the authority of such persons may totally or partially prohibit or restrict public access, with or without vehicles on any road or public place within the area in respect of which the proclamation of emergency is in force.

(2) Every person commits an offence against these Regulations who fails to comply with any prohibition or restriction imposed under this Regulation.

## **9 Removal of Vehicles**

Where a proclamation of emergency is in force a Minister, Chief of Police or any person acting under the authority of such persons may remove from any road or public place within the area in respect of which the proclamation of emergency is in force, any vehicle impeding civil defence operations; and, where reasonably necessary for that purpose, he may use force or may break into any such vehicle.

## **10 Requisitioning Powers**

(1) Where a proclamation of emergency is in force, and, in the opinion of Cabinet the action authorised by this subsection is urgently necessary for the maintenance of public safety, order and life of the community and securing and regulating the supply and distribution of food, water, fuel, light and other necessities, he or any person authorised by Cabinet may, without any further authority than this sub-regulation, require the owner or person for the time being in control of any land, building, vehicle, horse, boat, apparatus, implement, earth moving equipment, construction materials or equipment, furniture, bedding, food, medicines, medical supplies, or any other equipment, materials, or supplies (in this sub-regulation referred to as "requisitioned property") forthwith to place that requisitioned property under his control and direction or control and direction of Cabinet, or person so authorised by Cabinet if that person has requested the person making the requisition to do so on his behalf.

(2) Any person exercising any power conferred upon him by sub-regulation (1) of this section shall give to the owner or person in charge of the requisitioned property a written statement specifying the property that is requisitioned and the person under whose control the property is to be placed.

(3) Where the owner or person for the time being in control of any property that may be requisitioned under sub-regulation (1) of this Regulation cannot be immediately found Cabinet, or person so authorised by Cabinet may assume forthwith the control and direction of the requisitioned property.

(4) Where any person assumes the control and direction of requisitioned property under sub-regulation (3) of this Regulation that person shall ensure that, as soon as reasonably practicable in the circumstances, a written statement specifying the property that has been requisitioned and the person under whose control it has been placed is given to the owner or person formerly in charge of the requisitioned property.

(5) Every person commits an offence against this Act who fails to comply with any direction given to him under sub-regulation (1) of this Regulation.

(6) It shall be a defence in any proceedings for an offence against this section if the Court is satisfied that Cabinet did not have reasonable grounds for believing that in all the circumstances of the case the requirement was urgently necessary maintenance of public safety, order and life of the community and securing and regulating the supply and distribution of food, water, fuel, light and other necessities.

## **11 Compensation Payable where property requisitioned**

(1) Where any requisitioned property has come under the control of any person acting under Regulation 10 of these Regulations, or person authorised by Cabinet and acting in a proclamation of emergency, there shall, on application by any person having an interest in the requisitioned property, be payable, out of money appropriated by the Niue Assembly, reasonable compensation for--

*Niue Legislation Supplement and Constitutional Cases 2002-2004*

- (a) The use of that requisitioned property while under that control; and
- (b) Any loss of or damage or injury to that requisitioned property suffered or incurred while under that control.

(2) Where any requisitioned property has come under the control of Cabinet or of a person authorised by Cabinet and acting during a proclamation of emergency, there shall, on application by any person having an interest in the requisitioned property be payable, by the Government, as the case may be, reasonable compensation for--

- (a) The use of that requisitioned property while under that control; and
- (b) Any loss of or damage or injury to that requisitioned property suffered while under that control.

(3) Where there is any dispute as to the entitlement of any person to compensation under this section, or as to the amount of such compensation, or as to the liability of the Government to pay any such compensation, the matter shall be determined by any Court of competent jurisdiction.

**12 Protection from Liability**

(1) Except as provided in Regulation 11 of these Regulations, no action or proceeding shall be brought against the Crown, or any Village Council, organisation, or any officer or employee of them, or against any other person whatsoever, to recover damages for any loss of or damage to property that is due directly or indirectly to a proclamation of emergency, whether the loss or damage is caused by any person taking any action, or failing to take any action, in the exercise or performance in good faith of his functions, duties, or powers under these Regulations.

**13 Penalty for Offences**

(1) Every person who commits an offence against these Regulation is liable upon summary conviction--

- (a) In the case of an offence committed by an individual, to imprisonment for a term not exceeding 3 months or a fine not exceeding \$200, or both;
- (b) In the case of an offence committed by a body corporate, a fine not exceeding \$10,000.

**SCHEDULE**

<b>Ministerial Portfolio</b>	<b>Responsibility</b>
Deputy Premier	<ul style="list-style-type: none"><li>- Civil Defence</li><li>- All Relief Supplies from overseas</li><li>- External Affairs</li><li>- Transportation</li><li>- Communications</li><li>- Environment</li></ul>
Minister for Community Affairs	<ul style="list-style-type: none"><li>- Distribution of all Relief Supplies to all village communities</li><li>- Private housing and cyclone victims</li></ul>

*Public Emergency Regulations 2004*

	<ul style="list-style-type: none"><li>- Health Services</li><li>- National Security</li></ul>
Minister for Public Works	<ul style="list-style-type: none"><li>- Private Sector</li><li>- Distribution of Fuel</li><li>- Power Supply</li><li>- Water Supply</li></ul>