

**NIUE LAWS
LEGISLATION AS AT DECEMBER 2006**

PLANT QUARANTINE REGULATIONS 1985

1985 – 1 January 1986

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SCHEDULE

1 Title

These are the Plant Quarantine Regulations 1985.

2. Interpretation

In these Regulations –

"Act" means the Agriculture Quarantine Act 1985;

"as prescribed" means any procedure or treatment as detailed by the Director or contained in a manual or official treatment schedule approved by the Director;

"baggage" means any goods brought into the country by a passenger arriving by sea or by air from overseas;

"contamination" means any infection or infestation by plant disease or pest or having an association with unauthorised plant material or soil;

"conveyance" has the same meaning as in section 2 of the Act;

"Declaration" has the same meaning as in section 2 of the Act;

"Director" has the same meaning as in section 2 of the Act;

"disease" has the same meaning as in section 2 of the Act;

"dunnage" means timber, usually low grade, used for stowing goods in conveyances such as vessels or cargo containers;

"first point of entry" means the designated location through which plants, plant material and other regulated goods may enter the country from overseas;

"fruit" means the edible product of any plant whether attached to the plant or not and includes any peel, skin, shell or seeds, whether edible or not, as well as vegetables;

"goods" has the same meaning as in section 2 of the Act;

"import" has the same meaning as in section 2 of the Act;

"infected" has the same meaning as in section 2 of the Act;

"land" has the same meaning as in section 2 of the Act;

"noxious weed" means a plant declared by Cabinet to be harmful and subject to quarantine control;

"owner" means the person, corporate body or organisation, responsible for plants, plant material, pests, diseases, goods or soil, because he, she or it is the owner or the owner's agent or the person to whom these are consigned, or by whom they are being exported or the person, corporate body or organisation in charge of the conveyance in which plants, plant material, goods, pests, diseases or soil are being carried or have been carried;

"permit" has the same meaning as in section 2 of the Act;

"pest" has the same meaning as in section 2 of the Act;

"plant" has the same meaning as in section 2 of the Act;

"plant material" has the same meaning as in section 2 of the Act;

"phytosanitary certificate" means an official certificate issued by an authorised quarantine officer, substantially in the format of the Model Certificate of the International Plant Protection convention, attesting that the plant, to which it refers, has been inspected and found free from quarantine pests and substantially free from other injurious pests;

"quarantine area" means any land where a specified adjoining land by the Cabinet to be a quarantine area (for a prescribed period of time);

"quarantine pest or disease" means a pest or disease of potential national economic importance to the country endangered thereby and not yet presented there or present but not widely distributed and being actively controlled;

"quarantine officer" means any officer appointed under section 4 of the Act and includes an assistant;

"packing material" has the same meaning as in section 2 of the Act;

"refuse" has the same meaning as in section 2 of the Act;

"regulated material" means such plants, plant material, garbage, soil and other items that come within the provision of the Act;

"re-export" means to remove or ship plant material from Niue as a means of removing the pest and disease risk;

"soil" has the same meaning as in section 2 of the Act;

"timber" means logs, poles, dunnage, branchwood, firewood, bark and all wood which has been split, hewn, sawn or dressed but not otherwise manufactured and includes pre-fabricated building units, shakes, shingles, and wooden cases or boxes;

"treatment" has the same meaning as in section 2 of the Act.

PART 1 GENERAL REQUIREMENTS

3. Points of entry

No plant material or other regulated material may be imported into Niue except through the port of Alofi, the Hanan International Airport, the Post Office at Alofi, or such other places as may be notified by the Cabinet.

4 Inspection of plant or non-plant material

(1) All plant material, all fruit and vegetables or any other plant or any goods the entry of which presents a risk of pest or disease to Niue in the opinion of the quarantine officer and if necessary, shall be subject to treatments for the prevention of entry of disease or pest or if necessary, shall be subject to destruction or re-exported to the country of origin as the case may be.

(2) All treatments are performed at the risk of the importer or his agent.

(3) Any goods include all passengers' baggage, personal effects and clothing as well as vehicles, containers, drums and anything liable to carry a pest or disease of plants.

5 Requirements of all persons entering Niue in possession of plant material and regulated material

(1) Every person arriving from overseas shall be required to make a declaration in respect of plants, plant material, soil, culture or any other thing the subject of these Regulations.

(2) No person shall introduce into Niue any plant, plant material, or any other thing the subject of these Regulations unless these Regulations have been duly complied with in respect of plant material or other regulated material.

6 Placement in quarantine

Where a quarantine officer is not satisfied that the imported plants, plant material or goods are free of diseases and pests, which, in his opinion constitute a risk to Niue, he shall advise Customs that the plants, planting material or goods are to be held under Customs and Post Office control until such time as the quarantine officer is satisfied that the disease or pest has been eliminated.

7 Treatment

Where a quarantine officer has detained imported plants, plant material or goods on the evidence of infection, or suspected infection he may order a treatment as prescribed at the importer's expense.

8 Release of plants, plant material or goods

Provided all other requirements of these Regulations for the imported plant, plant material or goods have been met and subsequent to satisfactory inspection or satisfactory conclusion of a treatment as prescribed, the quarantine officer shall advise Customs and Post Office that all requirements of these Regulations have been met and that the imported plants, plant material or goods may be released to the importer or owner.

9 Transport, storage, unpacking, treatment

Prior to the release of any imported plant, plant material or goods the importer or owner may be required by the Director to provide for or meet the cost of transport, unpacking, security storage, and treatment as prescribed including cleaning and sorting.

10 Seizure and destruction

Any illegally imported plant, plant material including seeds, fruits, and vegetables or regulated material without a permit may be seized by a quarantine officer and treated by destruction by order of the senior quarantine officer.

11 Disposal of plant material

Any plant, plant material or goods imported under these Regulations but on examination or re-examination the quarantine officer is satisfied that the plant, plant material or goods is carrying or liable to be carrying a pest or disease and in his opinion cannot be effectively treated to eradicate the pest or disease and if, within a specified period of notification designated by the Director, the importer has not re-exported or re-shipped the plant, plant material or goods the Director shall order the destruction of the consignment of imported plants, plant material or goods.

12 Inspection and treatment of conveyances

(1) Immediately on the arrival of any conveyance from any overseas country, the conveyance together with its cargo and baggage may be inspected, examined, and ordered for treatment by a quarantine officer and no person shall enter the conveyance or remove any baggage or cargo from the conveyance without the authority of the quarantine officer until the inspection, examination or treatment is completed.

(2) The inspection and treatment may include inspection of conveyance, its cargo and stores as well as treatment if necessary at the expense of the owner of the conveyance and the spraying of every compartment of any conveyance as prescribed.

13 Applications for permits

(1) Applications for permits to import shall require specific information including –

- (a) Full name, residential address and postal address of the importer;
- (b) Name and address of exporter or persons from whom plant or plant material will be obtained;
- (c) Quantity and name (botanical name if approximate) of all material proposed to import;
- (d) Mode of transport, point of entry and approximate date of arrival.

(2) In granting any permits the Director shall give approval to import and indicate conditions to be met to satisfy quarantine requirements.

14 Plant quarantine forms

The Director may devise such forms which are to be used by importers desiring to import plant or plant material.

15 Official introduction by Government

(1) Official importations by the Director are exempt from the prohibitions and restrictions hereafter in these Regulations.

(2) Such importations are to be subject to measures prescribed by the Director to ensure absolute prevention of entry and dissemination of pests and diseases.

16 Permit to land

A quarantine officer may issue a permit to land for any plants, plant material or goods to enable inspection and treatment for quarantine purposes to be undertaken.

17 Quarantine for live plants

In lieu of post entry quarantine for live plants the Director may prescribe a period of intermediate quarantine at an approved location overseas where the plant material is to be established and screened as if undergoing post entry quarantine.

PART 2 ENTRY OF PLANTS, PLANT MATERIAL, PESTS, GOODS

18 Entry of plant material capable of growth

(1) The entry of plants and planting material including cuttings, budwood, stocks, tubers, corms, bulbs, suckers other than seed is limited to the smallest quantity of propagating material consistent with good horticultural practices and satisfactory establishment of the introduced cultivar.

(2) No live plants or planting material shall be introduced unless a permit has been obtained from the Director in advance of arranging the import.

(3) Plants which have satisfactorily cleared intermediate quarantine at an approved overseas location may be approved for import into Niue provided they are free of soil, fumigated on arrival and established at an approved place.

(4) When the Director is satisfied that the imported plants are free of pest and disease he may release them to the importer.

19 Entry of seed

(1) No agricultural or forest tree seed, except commercially packed flower and vegetable seed other than tomato seed, and bean shall be introduced unless a permit from the Director has been obtained.

(2) The entry of forest tree species is restricted to seeds which are inspected and treated as prescribed.

(3)

(a) All seed shall be free from injurious extraneous matter including notified noxious weeds and shall be subject to such conditions as the Director considers fit to require.

(b) All seed except flower and vegetable seed other than tomato and bean shall be accompanied by a photo sanitary certificate and other specified accompanying documentation may include a seed analysis report from the country of origin specifying extraneous foreign seeds and materials.

(c) Upon arrival samples of seed may be taken for examination and if necessary, in the opinion of the quarantine officer, treatment shall be applied as prescribed.

(4) Seeds of annual crops with specifically restricted entry, such as peanuts and maize, are to be grown overseas at an approved intermediate quarantine and only seed produced in intermediate quarantine with no evidence of disease is to be imported for release.

(5) Seeds such as citrus, coffee, coconut, cassava, sweet potato, taro, provided they are from reliable sources approved by the Director, may be imported, treated as directed prescribed, and grown at a location approved by the Director prior to release.

(6) Seeds of tomato should be treated as prescribed before release.

(7) Seeds of beans (*Phaseolus* spp) may be required to have a certificate of freedom from seed borne diseases.

20 Entry of fruits and vegetables

(1)

(a) A permit must be obtained in advance for each importation of admissible fresh fruit and vegetables.

(b) Admissibility of fresh fruit and vegetables will be determined by the Director when an application for a permit is submitted.

(c) Entry status will be determined according to the pests present in the exporting country.

(2) Importation of susceptible soft fleshy fruits and vegetables is prohibited from all countries or parts of countries where dangerous fruit flies are known to occur unless satisfactory treatments can be undertaken.

(3) Upon arrival any admissible fresh fruit and vegetables shall be examined by a quarantine officer and if a pest or disease is detected treatment as prescribed shall be applied before the fruit or vegetables are released to the importer.

(4) Fresh fruit and vegetables without permits are to be seized and destroyed.

(5) Frozen fruits and vegetables as well as canned or hermetically preserved fruit and vegetables are admissible without permit.

(6) Dried or candied fruits and nuts and vegetables that have been prepared in such a manner as to make them innocuous as pest carriers and are not otherwise prohibited may enter without permit subject to inspection for verification of their condition and freedom from pests.

21 Entry of timber

(1) Any timber imported from overseas shall be inspected for pests and contamination.

(2) Where pests of concern or contamination such as bark are detected, treatment as prescribed shall be required by the quarantine officer.

(3) All treatments shall be undertaken at the expense of the owner, importer or agent and to the satisfaction of the quarantine officer before release from quarantine is authorised.

22 Entry of cut and dried flowers

(1) Subject to these Regulations any cut flower, including foliage, may be imported, if on inspection at the point of entry for the cut flowers are free from pests and to contain no material capable of propagation.

(2) Subject to these Regulations any dried flower, including foliage, may be introduced, if on inspection at the point of entry for the dried flowers are free from pests but no dried flower of a plant producing agricultural seed or any plant specifically prohibited or restricted under these regulations shall be introduced.

23 Entry of plant material not capable of growth

The entry of any plant material or plant product, particularly or wholly manufactured, assessed by the Director as a potential carrier for an exotic serious pest to agriculture or

forestry in Niue is subject to permit, inspection and treatment as prescribed if treatment is found necessary.

24 Entry of soil

(1) No person shall import any soil whether by itself or with any plant material or as packing material in any form or adhering to any goods including vehicles and machinery unless the quarantine officer is satisfied that the soil will not introduce any pest.

(2) Notwithstanding paragraph (1) peat, free of contamination with soil, may be admitted subject to inspection.

(3) Soil used in any conveyance as ballast is to be discharged under the directions of the Director or as prescribed.

25 Entry of non-plant articles

Non-plant articles contaminated with soil or infested with pests are subject to such treatments, including cleaning, as directed by the Director or as prescribed.

26 Vessels from areas where rhinoceros beetle occurs

(1) Every ship arriving at Niue from any area infested by the Rhinoceros beetle (*Oryctes rhinoceros* /L/) is required to keep at least 1 mile from the encircling reef for at least 15 minutes before sunset until at least 15 minutes after sunrise.

(2) All aircraft arriving at Niue from a country infested by Rhinoceros beetle are obliged to land before sunset except in the case of an emergency.

27 Entry of pests or cultures

No person shall import any living culture or organism including parasites, predators, arachnids, molluscs, nematodes, fungi, bacteriat mycoplasma, parasitic plant organism, plant pests or other invertebrate animal unless a specific written permit has been issued by the Director in advance of the importation and only in compliance with conditions imposed by such permit.

28 Entry of tissue culture of plants

(1) Tissue cultures of plants may be imported on the basis of a permit from the Director and subject to inspection for contamination on arrival.

(2) Conditions of import may include certification of virus status.

29 Entry of honey bees

(1) The entry of all living stages of honey bee (*Apis* spp) shall be limited to entries under permit from the Director under conditions as prescribed.

(2) Entry of used bee keeping equipment, such as hives and frames, is prohibited.

30 Entry of material for research purposes

- (1) Material imported under permit for research purposes is subject to conditions of entry as stated on the permit issued by the Director.
- (2) Conditions prescribed by the Director will be those that offer maximum security against pest or disease dissemination.

31 Entry of packing material, used or second hand bags and dunnage

- (1) No person shall introduce into Niue as packing any hay, straw, chaff, soil, forest litter or compost.
- (2) No person shall receive as packing material any substance except sphagnum moss, woodwool, ground cork, charcoal, shredded paper, perlite, form rubber chips, vegetable fibre free of pulp, granulated plastics or other material approved by the Director.
- (3) No second hand or used bags or any such packaging are to be used for the import of any kind of goods.
- (4) Any imported timber dunnage is to be treated as prescribed before release or destroyed by incineration.

32 Entry of handicrafts made from plant material

If handicrafts do not contain any material prohibited under these regulations, they may enter subject to inspection and treatment as required.

33 Exclusion of liability

Neither the Department of Agriculture nor any quarantine officer shall be liable for any loss or damage resulting from the exercise of powers under these regulations unless the loss or damage is caused otherwise than in the reasonable exercise of these powers.

PART 3 GENERAL PROVISIONS

34 Specific prohibitions and restrictions

- (1) The specific quarantine prohibitions and restrictions contained in the Schedule shall apply in conformity with other conditions prescribed in these Regulations.
- (2) Additions may be made by notification from the Cabinet.

35 Emergency powers

If the Cabinet by proclamation under the Agriculture Quarantine Act 1984 has declared a state of agriculture emergency throughout all or any part of Niue the emergency measures which may be taken by Cabinet or a person authorised by Cabinet shall include –

- (a) Declaring a specific disease affecting plants (or animals) or pests of plants including noxious weeds to be a quarantine pest or disease;
- (b) Defining a geographical area within Niue as a quarantine area or the whole of Niue as a quarantine area;
- (c) Control by quarantine officers or other authorised persons of the movements of persons, plants, animals or goods into or out of the quarantine area from or to any other part of Niue;
- (d) Authority for the Director to notify in writing to the owner or owners of land the measures to be taken aimed at eradication of the specific quarantine disease or pest and destruction of plants or goods if deemed necessary by the Director;
- (e) Authority for the Department of Agriculture to undertake measures including destruction mentioned in the previous clause if the owner of the land cannot be contacted. The owner shall be obliged to reimburse the Government for the costs incurred;
- (f) Compilation of full details of each case of the owner of land so that compensation, if any, can be properly assessed;
- (g) Provision of a defined period for all the foregoing quarantine measures to operate and provision for extension by Cabinet for further appropriate periods considered necessary.

36 Export requirements

- (1) An authorised quarantine officer may issue phytosanitary certificates based on inspection of plants and plant material performed at the request of exporters to aid them in meeting the entry requirements of the importing country.
- (2) The certificates are to be issued only for plants or plant material produced in Niue.
- (3) The issuance of a phytosanitary certificate in no way releases the importer from compliance with any import regulations of the country to which the plants or plant material are consigned.
- (4) The phytosanitary certificate used is to be substantially based on the model adopted by the International Plant Protection Convention of 1951, as amended in 1979.

37 Fees

Any treatment or destruction shall be carried out at the expense of the importer at such rates determined by the Director.

1 Banana, abaca and other "musaceae"

- (1) The inflow of plants and corms is prohibited.
- (2) Tissue cultures may be imported under permit provided these are accompanied by a phytosanitary certificate certifying freedom from virus including Bunchy top disease.
- (3)
 - (a) Fruit of banana may be imported only with a permit issued by the Director.
 - (b) When issuing the permit the Director may stipulate pre-export treatment in the country of origin.

2 Beans (phaseolus spp)

Seed of Phaseolus spp is prohibited import except by permit of the Director.

3 Cassava (Manihot esculenta) Crantz

The import of plants of Manihot esculenta Crantz is prohibited except that seed and tissue cultures may be imported under permit issued by the Director.

4 Citrus

- (1) All planting material including budwood and except fruit and seed is prohibited.
- (2)
 - (a) Citrus fruit is prohibited from all countries where Citrus canker (*Xanthomonas campestris* p.v. *Citri* Hass) occurs.
 - (b) Citrus fruit may enter only with a permit granted by the Director, issued under conditions he considers appropriate.
- (3) Citrus seed free of pulp is permitted entry subject to a permit inspection, and treatment as prescribed.
- (4) Citrus includes the following genera: citropsis, citrus, eremocitrus, fortunella, microcitrus, monanthocitrus, pleurocitrus and poncirus.

5 Coconuts (Cocos mucifera L)

- (1) Import of seedlings and suckers of all the family Palmae is prohibited.
- (2) Import of seed nuts and pollen is prohibited except by special permit from the Director.
- (3) Conditions of the permit include selected approved sources, mandatory growth in quarantine and restriction of quantity not to exceed 100 for each line.

(4) No person shall introduce coconuts for consumption or processing unless the consignment was fumigated at the time of shipment or at destination before delivery as prescribed.

6 Coffee (coffee spp)

(1) All planting material of coffee spp except seed is prohibited.

(2) Viable seed may be imported under special permit of the Director from specified selected locations for scientific purposes, treated as prescribed by the Director and grown under close surveillance in quarantine.

7 Ginger (*Zingiber officinale* Rose)

All plants of the Zingiberaceae family are prohibited except by permit of the Director.

8 Mango (*Mangifera indica* L.)

All plant material of *Mangifera indica* including fruit is prohibited import except by permit of the Director.

9 Maize (*Zea mays* L.)

(1) All plant material of maize (*Zea mays* L.) except seed is prohibited.

(2) Seed may be imported only by permit issued by the Director.

10 Peanut (*Arachis hypogaea* L.)

All plant material of *Arachis hypogaea* L. is prohibited except for seed which may be imported only with a permit from the Director.

11 Sugar cane (*Saccharum officinarum* L.)

The import of all plant material including the seed of *Saccharum officinarum*

L. is prohibited except by permit issued by the Director.

12 Sweet Potato (*Ipomoea batatas* L.Lam)

The importation of plant material of *Ipomoea batatas* L. Lam is prohibited except by permit issued by the Director.

13 Tomato *Lycopersicon esculentum* Miller

The import of seed of *Lycopersicon esculentum* Miller is prohibited except by permit of the Director.

14 Pineapple (*Ananas cosmosus* /L/Merrill)

The import of planting material including the fruit of *Ananas cosmosus* (1) Merrill is prohibited except by permit issued by the Director.

15 Rubber (*Hevea* spp.)

The import of all plant material including the seed of all species of *Hevea* is prohibited.

16 Taro and other aroids (*Alocasia* spp. *Colocasia* spp. *Xanthosomas* spp. and *Cyrtosperma* spp.)

(1) Vegetative planting material is prohibited except by permit issued by the Director with provisions that roots/corms be free of soil, treated and devitalised as prescribed and inspected on arrival.

(2) Seeds and tissue culture may be imported with a permit from the Director under prescribed conditions.