

**NIUE LAWS
LEGISLATION AS AT DECEMBER 2006**

ATOMIC ENERGY ACT 1945

1945/41 (NZ) – 7 December 1945

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To make provision for the control in Niue of the means of producing atomic energy and for that purpose to provide for the control of the mining and treatment of the ores of uranium and other elements which may be used for the production of atomic energy, and to provide for the vesting of such substances in the Crown

1 Short title

This is the Atomic Energy Act 1945.

2 Interpretation

In this Act –

"atomic energy" means the energy released from atomic nuclei as a result of any process, including the fission process; but does not include energy released in any process of natural transmutation or radioactive decay which is not accelerated or influenced by external means;

"minerals" means any mineral, mineral substance, or metal; and includes precious metals, precious stones, and includes any prescribed substance;

"mining" means mining operations, and includes prospecting;

"mining operations" means operations in connection with mining for any mineral, and includes –

(a) The removal of overburden by mechanical or other means, and the stacking, deposit, storage and treatment of any substance considered to contain any mineral;

(b) The deposit or discharge of any mineral, material, debris, tailings, refuse, or waste-water produced from, or consequent on, any such operations or purposes;

(c) The erection, maintenance, and use of plant and machinery, and the construction or use of roads, races, dams, railways, channels, batteries, buildings, dwellings, and other works connected with such operations or purposes; and

(d) The lawful use of land, water, pools and natural depositories of water (whether containing water or not) and the doing of all lawful acts incident or conducive to such operations;

"prescribed substance" means uranium, thorium, plutonium, neptunium, or any of their respective compounds, or any such other substance as Cabinet may prescribe, being a substance which in his opinion is or may be used for the production of atomic energy or research into matters connected therewith;

"uranium" includes thorium and all natural substances, chemical compounds, and physical combinations of uranium or thorium.

3 [Repealed by 2004/270]

4 Notification of discovery

Every person who has discovered that any prescribed substance occurs at any place in Niue shall, within 3 months after making the discovery, whichever is the later, report the discovery by written notice (which shall specify the place where the discovery took place and the date of the discovery) to the Secretary to the Government.

4A Grant of rewards

(1) The Cabinet may, out of money appropriated by the Assembly for the purpose, make such grants as the Cabinet thinks fit for the purpose of rewarding any person discovering any prescribed substance.

(2) Any application for a grant under this section shall be made in writing to the Secretary to the Government.

(3) Where, in the opinion of the Cabinet, any deposit containing any prescribed substance has no immediate commercial value but, because of geological interest, is sufficient to justify further prospecting, Cabinet may make a grant under this section, not exceeding \$400, to the person discovering the deposit.

(4) Where, in the opinion of the Cabinet of Ministers of Niue, any deposit containing any prescribed substance is sufficient to have a potential value, the Cabinet may make a grant under this section not exceeding \$2,000, to the person discovering the deposit.

(5) (a) Where, in the opinion of the Cabinet, any deposit containing any prescribed substance will produce 25 tons or more of uranium oxide, the Cabinet may make a grant under this section of \$2,000, increased at the rate of \$800 for each 5 tons in excess of 25 tons of uranium oxide which it is estimated that the deposit will produce, to the person discovering the deposit.

(b) That the total of any grant under this subsection in respect of any one discovery shall not exceed \$50,000.

(6) Payment of any grant under this section may be made in one amount or by installments payable at such times as the Cabinet determines.

(7) Where 2 or more persons, either jointly or severally, make application under this section for a grant in respect of the same discovery of a deposit containing any prescribed substance, the Cabinet may direct that the grant, if payable under this section, shall be paid to one applicant only or that it shall be apportioned between such of the applicants and in such proportions as the Cabinet thinks fit.

(8) Any application for a grant under this section may be granted or refused in the absolute discretion of the Cabinet and, subject to this section, the amount of any such grant shall be in the absolute discretion of the Cabinet.

(9) Any grant made under this section shall be exempt from income tax.

4B Grants to assist

(1) The Cabinet may, out of money appropriated by the Assembly for the purpose make such grants as the Cabinet thinks fit for the purpose of assisting any person prospecting for or producing any prescribed substance.

(2) Any grant under this section may be by way of cash payment, loan, subsidy, or otherwise and may be made either unconditionally or subject to such conditions as the Cabinet thinks fit.

(3) Any application for a grant under this section shall be made in writing to the Secretary to the Government.

(4) Payment of any grant under this section may be made in one amount or by instalments payable at such times as the Cabinet determines.

(5) The Cabinet may for the purposes of this section, in the name and on behalf of Her Majesty, make and enforce such agreements, and execute such instruments, as the Cabinet thinks fit.

5 Cabinet may control mining

(1) If the Cabinet is satisfied that any person is mining or is about to mine any prescribed substance or is engaged or about to engage in carrying out any physical, chemical, or metallurgical process as a result of which, in the opinion of the Cabinet, any prescribed substance may reasonably be expected to be isolated or extracted, the Cabinet may, by notice in writing given to that person, require him in conducting the mining operations or in carrying out any process as aforesaid to comply with and observe such terms and conditions as the Cabinet may in the notice think fit to impose.

(2) Without prejudice to the generality of subsection (1), the Cabinet may require that the mining operations shall be so conducted, or that such process for treatment and concentration shall be used, as will provide for or facilitate the extraction, isolation or concentration of the prescribed substance.

6 Disposition of prescribed substances

(1) All minerals, concentrates, or other materials containing any prescribed substance which are extracted, isolated, or concentrated by any person shall only be disposed of with the prior written consent of the Cabinet and subject to such conditions as the Cabinet shall impose.

(2) The Cabinet may serve notice on any person who has produced any mineral, concentrate, or other material containing any prescribed substance that the Cabinet proposes to acquire, on behalf of Her Majesty, the mineral, concentrate or other material, and upon the service of the notice and the payment of purchase price under this section, the mineral, concentrate, or material shall become the property of the Crown and shall be delivered to the Cabinet or as it shall direct.

(3) There shall be payable out of money appropriated by the Assembly for the purpose in respect of the acquisition of any substance under this section a sum equal to the price

which the owner of it might reasonably have been expected to obtain upon a sale of it effected by him immediately before the date of the service of the notice referred to in subsection (2).

7 Importation of prescribed substances

(1) Subject to subsection (2), no person shall, without the prior written consent of the Cabinet, import any prescribed substance.

(2) Samples of any minerals containing any prescribed substance may be imported without the consent of the Cabinet if the weight of those samples does not exceed 5 pounds.

8 Uranium to be property of Crown

(1) (a) Notwithstanding anything to the contrary in any Act or in any Crown grant, certificate of title, lease, or other instrument of title, all uranium existing in its natural condition on or below the surface of any land within the territorial limits of Niue, whether the land has been alienated from the Crown or not, is hereby declared to be the property of the Crown.

(b) Nothing in this subsection or in section 9 shall be deemed to affect the right of any person to receive payment in respect of any mineral, concentrate, or other material containing any prescribed substance mined or produced by that person under this Act.

(2) All alienations of land from the Crown, whether by way of sale or lease or otherwise, shall be deemed to be made subject to the reservation of all uranium existing in its natural condition on or below the surface of the land, and subject to this Act.

9 No compensation for uranium

Compensation shall not be payable under any Acts in respect of any uranium existing in its natural condition on or below the surface of any land.

10 Cabinet may mine

(1) The Cabinet may mine for any mineral containing any prescribed substance and carry on such processes or operations as the Cabinet thinks fit for the concentration, isolation, extraction and chemical purification of any prescribed substance.

(2) For the purposes of this section the provisions of any enactment relating to the application for, holding, purchase, or other acquisition of any licence authorising the prospecting for or mining of any prescribed substance shall apply to the Cabinet in all respects as they apply to any other person.

11 [Repealed 1976/4/26]

12 No person to possess fissionable substances

(1) No person shall, without the prior written consent of the Cabinet, import or have in his possession or control any plutonium or other substance from which atomic energy

may be produced more readily than from uranium of natural isotope composition.

(2) No person shall, without the prior written consent of the Cabinet, import, construct, have in his possession or control, or operate any machine, atomic pile, or apparatus which may be capable of producing atomic energy or which the Cabinet has by notice in the Gazette for the purpose of this section declared to be an essential part of any such machine, pile, or apparatus.

(3) No person shall, without the prior written consent of the Cabinet import, manufacture, or have in his possession or control any material or substance which that Cabinet has by notice in the Gazette for the purposes of this section declared to be essential to any process for the production of atomic energy.

13 Experimental work

(1) Notwithstanding the foregoing provisions of this Act, uranium and thorium of natural isotope composition of an amount not exceeding the appropriate amount mentioned in subsection (2) may be possessed and used for the purpose of instruction and of investigation as to the properties and effects of radioactive and like radiations at any university in Niue, at any school providing secondary instruction, and at any laboratory under the control of a Department of State.

(2) (a) The amount of uranium and of thorium that may be possessed and used as provided in subsection (1) shall be one pound each of uranium and of thorium, calculated by metal content in the case of a school providing secondary instruction, and 20 pounds each of uranium and of thorium, calculated by metal content, in any other case.

(b) Cabinet may by notice in the Gazette increase or reduce the amounts that may be possessed and used as aforesaid.

(3) Notwithstanding the foregoing provisions of this Act any university in Niue and any laboratory under the control of a Department of State, may import, purchase, construct, have possession and control of, and operate any machine, pile, or apparatus capable of the production of atomic energy at a rate not exceeding 1000 watts, or at such other rate and under such conditions as may be fixed by the Cabinet by notice in the Gazette, and may retain and use for experimental purposes the products produced.

14 Restriction on trading

No person shall, without the prior written consent of the Cabinet, export or sell or otherwise dispose of any isotope of uranium, or any plutonium or other substance from which atomic energy may be more readily obtained than from uranium of natural isotope composition, except to the Crown.

15 Entry on land and premises

(1) It is hereby declared that any person authorised either specially or generally by the Cabinet may enter on any premises on which any mining operations are carried on or on which the person or officer so authorised has reasonable grounds to suspect that there may be found minerals, concentrates, or other materials which have been mined,

extracted, isolated, or concentrated and which contain any prescribed substance, for the purpose of ascertaining whether or not there is any prescribed substance on the premises or in any minerals, concentrates, or other materials, and for that purpose the person or officer so authorised may make observations and tests and may extract and remove samples for further testing.

(2) Every person commits an offence and is liable on conviction to a fine not exceeding 1 penalty unit or to imprisonment for a term not exceeding 3 months who wilfully obstructs or interferes with any person exercising or attempting to exercise his powers under this section.

16 Granting of consents

In granting any consent or imposing any requirement under this Act the Cabinet may impose such conditions as the Cabinet thinks fit.

17 Service of notices

(1) Any notice required to be given to any person for the purposes of this Act may be given by causing it to be delivered to that person, or to be left at his usual or last known place of abode or business or at the address specified by him in any application or other document received from him for the purposes of this Act, or to be posted in a letter addressed to him at that place of abode or business or at that address.

(2) If any such notice is sent to any person by registered letter, it shall be deemed to have been delivered to him when it would have been delivered in the ordinary course of post, and in proving the delivery it shall be sufficient to prove that the letter was properly addressed and posted.

18 Offences

Any person who fails to comply with, or contravenes, any provision, prohibition, condition, or requirement contained in or imposed under this Act commits an offence and, where no specific penalty is elsewhere provided, shall be liable on conviction to a fine not exceeding 10 penalty units or to imprisonment for a term not exceeding 6 months or to both such fine and such imprisonment.

19 Regulations

The Cabinet may make all such regulations as may in its opinion be necessary or expedient for giving full effect to this Act and for its due administration.