

Wildlife Amendment Bill 2015

This Act amends the Wildlife Act 1972 for increased protection and recovery of the wildlife flora and fauna of Niue.

Section 2 is amended by –

Inserting after the term “bag limit”, the term, “biological resources” means genetic resources, specimens, organisms, or parts thereof, populations, or other biotic component of ecosystems with actual or potential use or value for humanity.

Inserting after the term “carcass” the term, “department” means the Environment Department established by Section 5 of the Environment Act 2003, and or any other Department responsible for the administration of this Act.

Inserting the term, “ecosystem” means a dynamic complex of plant, animal, mammal, microorganisms, communities or species and their non-living environment interacting as a functional unit.

Removal of the term, “animal” and replace with “species”, means any terrestrial or marine wildlife animal, mammal, fish, bird, plant or living organism in the context of wild life marine and or terrestrial flora, fauna and avi fauna that exists in its natural ecosystem.

Removal of the term “protected animal” and replace with “protected species” means any terrestrial or marine wildlife whether animal, mammal, fish, bird, plant or living organism that is declared a protected species under Section 3.

Replacing “absolutely protected animal” with “absolutely protected species” means any marine or terrestrial wildlife animal, mammal, fish, bird, plant or living organism that is subject to protection under Section 3.

Replacing the term “partly protected animal” with “partly protected species”, means any wild life animal, bird, plant or living organism that is declared a partly protected species under Section 3.

Inserting the terms -

“corridor(s)” means a way to maintain vital ecological or environmental connectivity by maintaining physical linkages between core areas.

“cultural heritage” includes –

monuments, architectural works, works of monumental sculpture and painting, elements or structures of an archaeological nature, inscriptions, cave dwellings and combinations of features, which are of outstanding universal value from the point of view of history, art or science, groups of buildings: groups of separate or connected buildings which, because of their architecture, their homogeneity or their place in the landscape, are of outstanding universal value from the point of view of history, art or science; sites: works of man or the combined works of nature and of man, and areas including archaeological sites which are of outstanding universal value from the historical, aesthetic, ethnological or anthropological points of view.

“natural heritage” means –

natural features consisting of physical and biological formations or groups of such formations, which are of value from the aesthetic or scientific point of view;

geological and physiographical formations and precisely delineated areas which constitute the habitat of threatened species of animals and plants of outstanding universal value from the point of view of science or conservation; and

natural sites or precisely delineated natural areas of outstanding universal value from the point of view of science, conservation or natural beauty.

“ protected area,” means a clearly defined geographical space, recognized, dedicated and managed, through legal or other effective means, to achieve the long-term conservation of nature with associated ecosystem services and cultural values

Adding to the definition of ‘wildlife warden’ after constable, “ or environment officer appointed under Section 11 of the Environment Act 2003”

“Section 3 Powers of Cabinet” is repealed and is replaced by Section 3 Powers of Cabinet to Declare Protection

1. (a) By recommendation of the Director, Cabinet may by notice in the Gazette declare protection over areas of significant natural and or cultural value (or both) and for which intrusive activities on, above and or below ground or underwater are either limited or prohibited.

(b) Areas that are currently under a conservation protection by Niuean custom and culture (tapu areas or sacred sites) or by policy may convert and become declared protected under this section.

(c) The Director may facilitate declaration initiated by village councils, local community or private parties and make recommendation to Cabinet in accordance with sub clause 1(a).

1. Guidelines for assigning protection management categories established by the International Union for Conservation of Nature may be referred to when assigning protection to an area and may include any of the following;

(a) Category 1a: Tapu Area or Strict Nature Reserve

Refers to strictly protected areas set aside to protect biodiversity and geological and or geomorphical features, where human visitation, use and impacts are strictly controlled and limited to ensure protection of the conservation values and can serve as indispensable reference areas for scientific research and monitoring.

(b) Category 1b: Wilderness Area

Refers to large unmodified or slightly modified areas, retaining their natural character and influence, without permanent or significant human habitation, which are protected and managed so as to preserve their natural condition.

(c) Category II: National Park

Refers to large natural or near natural areas set aside to protect large-scale ecological processes, along with the complement of species and ecosystems characteristic of the area, which also provide a foundation for environmentally and culturally compatible spiritual, scientific, educational, recreational and visitor opportunities.

(d) Category III: Natural Monument or Feature

Refers to areas set aside to protect natural monument, which can be a landform, seamount, submarine cavern, geological feature such as a cave or even a living feature such as an ancient grove and are generally quite small-protected areas often with high visitor value.

(e) Category IV Fono Area or Habitats/ Species Management Area

Refers to areas set aside for the protection of species whether threatened or not and includes habitats, and may be subject to regular or active interventions to address the requirements of particular species or for habitat maintenance.

(f) Category V: Protected Landscape/Seascape

Refers to areas where the interaction of the people and nature over time has produced an area of distinct character with significant ecological, biological, cultural and scenic value: and where safeguarding the integrity of this interaction is vital to protecting and sustaining the area and its associated nature conservation and other values.

(g) Category VI: Protected area with Sustainable Use of Natural Resources

Refers to areas for the conservation of ecosystems and habitats, together with associated cultural values and traditional natural resource management systems, and which may be large, with most of the area in a natural condition and may have been subject to limited non-industrial use of resources compatible with nature conservation such as would be common to subsistence living.

(3) Declaration of a protected area includes Niuean land and Crown land, caves, corridors, freshwater sources, coastal and sea areas or seamounts within the territorial sea and exclusive economic zone.

(4) The format for declaring protection under this section shall be in the form prescribed in the Schedule.

**3A Governance Structure for Protected Area**

Protected areas may be governed and managed by either of the following governance types;

(i) Sole management by government

(ii) Shared governance between government and a non-government organization or private party, or between a non-government organization and a private individual or private legal entity;

(iii) Private governance by a private party; and or

(iv) Governance by a village council, local community or a recognized local authority.

3B Protected Areas and Heritage Sites

1. Protected areas may include heritage sites or sites of cultural significance and vice versa
2. Areas may be considered as mixed cultural and natural heritage if they satisfy part or whole of the definition of “natural heritage” or “cultural heritage”
3. Guidelines issued from time to time for the implementation of the World Heritage Convention may be referred to and read in conjunction with the IUCN Guidelines for Applying Area Management Categories for guiding declarations made on a natural area that is also a heritage site.

3C Administration of this Act

The Environment Department shall administer this Act and where relevant;

1. in collaboration with the Taoga Niue Department in matters relating to Niuean customs, culture, heritage and traditional knowledge;
2. in collaboration with the Department of Agriculture, Forestry and Fisheries in matters relating to forests and marine; and
3. in collaboration with the Department of Justice, Lands and Survey in matters pertaining to Niuean and or Crown land.

3D Wildlife Policy

1. Where the Minister authorizes that a policy is necessary for the conservation of wildlife, the Director may prepare a wildlife policy to determine-
2. The context and issues for which the policy should address;
3. Status of Niue’s wildlife;
4. The interests of relevant stakeholders;
5. Values and guiding principles for wildlife conservation, with particular attention to values arising from Niuean customs and culture, biological diversity, economic, environment and social necessity;
6. National priorities agreed to by relevant stakeholders;
7. The desired goals for the conservation of wildlife;
8. The cultural and customary conditions pertaining to Tapu Areas and Fono Areas.
9. Guiding principles imposed by Niuean custom in respect of tapu and fono areas;
10. To coordinate activities and actions for implementing the provisions of this Act;
11. Methods for monitoring and evaluating the implementation of the policy; and
12. Any other issue that should be addressed in order to conserve wildlife.

(2) The policy shall promote environmentally sound and safe management and conservation of Niue’s wildlife and biological resources.

(3) In absence of a documented policy, the Department may incorporate best practices, guidelines and conservation management methods practiced in Niuean customs to continue its work in the interim.

3E Wildlife Management Plan

1. The Department shall prepare a wildlife management plan in accordance with the principles outlined in the Niue National Biodiversity Strategic Action Plan 2001 and any of its subsequent versions, Niuean custom and heritage, wildlife policy and or best practice.
2. The plan shall give direction regarding the conservation and sustainable utilization of wildlife resources and may include;

(a) Objectives for the conservation and protection of wildlife, individual species and or individual protected area;

(b) Traditional knowledge and conservatory principles supplied by Niuean customs, heritage and culture;

(c) An evaluation of Niue’s wildlife species and ecosystems, its current status, condition, threats and vulnerabilities;

(d) The identification and monitoring of wildlife components that are important for its conservation and use, or that are sufficiently understood, or for collecting useful information;

(e) Actions to implement wildlife policy and provisions of this Act;

(f) Amendments from time to time on actions to conserve wildlife;

(g) Prohibited activities that adversely impact wildlife;

(h) List of threatening processes and activities together with threat abatement

actions;

(i) Indirect activities that may impose adverse impact of wildlife;

(j) The opening and closing of hunting and or harvesting seasons for partly protected species;

(k) The biological nature of protected species and biological resources.

(k) Specific actions to mitigate loss of wildlife;

(l) Specific actions for the recovery of wildlife; and

(m) Identification of invasive species and action to be taken for eradication.

3F Wildlife Impact Assessment

(1) Activities, projects and developments that may

1. likely affect or alter wildlife,
2. alter Niuean custom pertaining to wildlife; and
3. may require a permit, licence or approval by law

is subject to a Wildlife Impact Assessment.

(2) Cabinet may by regulation prescribe the process and fees for undertaking and granting of a Wildlife Impact Assessment.

Section 4 is amended by replacing the heading “Protection of animals” with “Protection of Species”

Section 4(i),(ii), (iii) and (iv) is amended by replacing “protected animal” with protected species”.

Section 4(1) is amended by inserting after sub clause- (iv) the following sub- clauses–

“(v) Destroy, disturb, or harm habitats of a protected species; or

(vi)Destroy, disturb, harm or harvest any protected flora, plant, biological resource or living organism that is a protected species”

Section 4 (3) (a) is amended by removal of the term “ forty dollars” and replacing with “ 10 penalty units”

Section 4(5) is amended by replacing it with “ Any person who is, by a wildlife warden found to have in his possession, custody or control any species, animal, carcass whole or part of a plant, genetic sample, or sample of a living organism that is not an animal, shall be presumed, in the absence of proof to the contrary, to have tripped or killed the animal or species concerned during the period of one day immediately preceding the point of time at which he is so found.

Section 4 is amended by inserting after it -

4A Protected Area for Marine, Terrestrial Flora and Fauna, Avi Fauna and its Ecosystems

1. Prohibitions and or limitation of activities imposed upon any protected area according to its assigned management category shall be adhered to.
2. A person shall be liable for up to 50 penalty units for offences against this section.
3. Persons may challenge the prohibition or limitation imposed on an area if such prohibition or limitation was imposed without adequate consultation and consent of the owners or for its improper application or implementation by the governing body.

Section 5(3) is amended by replacing “0.5 penalty units” with “5 penalty units”

Section 6 is amended by replacing the numbering “Section 6” with “Section 6 (1)” and inserting a sub- clause “ (2) Where a person is convicted of an offence in section 4(5), the court may order that any sample, part or whole of a species, or any tool or gear used to remove the species, as absolutely forfeited to the Crown and shall be disposed of in such manner as Cabinet may specify”.

8 Establishment of a Conservation Fund / Green Fee

1. A conservation fund shall be established to raise funds for environment conservation.
2. Proceeds may be derived from licenses, airport departure taxes and or fees imposed on any application arising from this Act.
3. Proceeds may be used for raising public awareness, maintenance of protected areas and for encouraging scientific study and research.

9 Control of fires, feral animals and invasive species

1. Land clearing or waste disposal by way of fires during the dry months of the year is prohibited.
2. The Director shall be responsible for issuing warnings or a ban against bush fires for a specified period of time.
3. Such ban or limitation may be lifted as soon as the dry spell passes or when it is appropriate to do so.
4. A person shall be liable for up to 5 penalty units for offences against this section.
5. Persons are authorized to kill or destroy feral pigs, dogs, cats, mice or any other animal that is deemed a nuisance and or harmful to other wildlife flora and fauna.
6. The Director may issue annually, a list of invasive species that is subject to this section.

10 Ownership of biological resources and specimens taken for scientific research

1. Cabinet may by regulations prescribe the process for applying to and obtaining consent to extract or take all or parts of any of Niue’s wildlife and biological resources for scientific research.
2. Consent to take any of Niue’s biological resource is subject to the following conditions;
3. Use must be confined to the purpose for which the consent is applied for;
4. No unauthorized transfer or modification of such biological resource;
5. All findings and or reports of the study shall be lodged with the Department as soon as it is completed; and
6. Acknowledging ownership of wildlife that are endemic to Niue as a resource or an item of Niuean origin.

11 Public Awareness

1. The Department shall create an active network and public relations programme for raising conservation conscience for the preservation of the environment throughout the Niuean community.
2. The Department may, either on its own or in partnership with other bodies, organization or local communities undertake adequate public awareness relating to the nature of the protected area, its objectives, location, boundaries and description.
3. Protected Areas shall be marked with proper signage leading to its actual physical location and a full description of its objectives, including a full range of activities allowed or prohibited shall be clearly displayed on site.

12 Environment Register of Records

The Director shall establish and maintain an Environment Register to keep all records pertaining to-

(1) (a) statutes, regulations, standards and guidelines for environmental practice;

(b) Environment reports prepared periodically by the Director regarding the conditions and status of Niue’s environment.

(c) Policies and management plans;

1. Declared protected areas and or heritage sites;
2. Scientific reports, research and or findings relating to any aspect of the Niuean environment;
3. Applications, permits, approvals and licenses issued under this Act or any other relevant Act;
4. International conventions and multilateral environment agreements (MEAs) to which Niue is a party to;
5. Records of the conservation fund and any other moneys paid for the approval or granting of consents and licenses;
6. Any other records of vital baseline data and trends regarding Niue’s environmental status;
7. And such other matters prescribed by Regulations
8. All material entered in the Environment Registry shall be lodged with the Department in physical and electronic form, and be available for public use and inspection during normal business hours.
9. Material that are commercially or culturally sensitive shall be classified in whole or in part as confidential and for which access may be subject to terms and conditions determined by the Director;
10. The Minister on recommendation of the Director shall prescribe a system of fees and charges for the purpose of recovering any operational costs arising from requests for copies of material held at Registry.

Section 3(1)(c)

SCHEDULE

1. The International Union for Conservation of Nature (IUCN) Guidelines for Applying Protected Area Management Categories (2008) and or any of its later versions shall be referred to as authority for assignment of protected areas.

2. Greater detail as to the definition of the categories according to site specifications and local circumstances is encouraged.

3. Use the following form to assign a protected area management category prior to declaration under Section 3. Remove explanatory notes and fill in the fields.

**Form for the Assignment of an IUCN Management Category to a Protected Area Declared under this Act.**

|  |  |
| --- | --- |
| BASIC INFORMATION | Notes |
| Name and Identification of the Protected Area  Geographical coordinates to the nearest second and size of the area  Distinguishing features  Official Date of Establishment  Objectives  Conservation Nature of the Objectives  Ownership, Governance and Management Authority.   1. Local owners 2. Local Authority 3. Government 4. Private 5. Shared   Description and History of the Area | *Give the name and location of the area. Explain how the area is geographically defined by coordinates, area and buffer zone, or by a provisional plan drawn up by the land surveyors of the Department of Justice, Lands and Survey.*  *An account of significant events in history or pre-history that has affected the evolution of the area and gives an account of its interaction with humankind. This will include changes in the use of the area and its natural resources for hunting, fishing or agriculture, or changes brought about by climatic change, cyclones, earthquake or other natural causes.* |
| Justification and rationale for proposed IUCN category.  Integrity and present state of conservation  Proposed IUCN category | *State briefly how the property meets the following criteria-*   1. *an outstanding example representing significant ongoing ecological and biological processes in the evolution and development of terrestrial, coastal and marine ecosystems and communities of wildlife flora and fauna.* 2. *Contain the most important and significant habitats for in-situ conservation of biological diversity, including threatened species of outstanding universal value from the point of view of science conservation*.   *The statement of integrity should convey the measure of wholeness and intactness of the natural and or cultural heritage site and its attributes.*  *This covers*  *• all elements necessary to express its outstanding value;*  *• is of adequate size to ensure the complete representation of the features and processes which convey the property’s significance;*  *suffers from adverse effects of development and/or neglect*  *As we as baseline data on species trends or the integrity of eco-systems should be provided. This is important because the nomination will be used in future years for purposes of comparison to trace changes in the condition of the area.*  *For example,*   * + - 1. *Category 1a Tapu Area or Strict Nature Reserve*       2. *Category III Natural Monument of feature*       3. *Category IV Fono Area or Habitats and Species Management Area*       4. *Category V Protected Landscape*       5. *Category VI Protected Area with Sustainable Use of Natural Resources* |
| **Development Pressures** | *Itemize types of development pressures affecting area; habitat modification or destruction following encroaching agriculture, forestry, or through poorly managed tourism or other uses; inappropriate or unsustainable natural resource exploitation; damage caused by mining; the introduction of exotic species likely to disrupt natural ecological processes, creating new centres of population on or near properties so as to harm them or their settings.* |
| **Environment pressures** | *Summarize major sources of environmental deterioration affecting wildlife flora and fauna. eg*   1. *Threatened use in the area - unsustainable use, invasive species, climate change - species distribution, changing seasons - rainfall (eg. Mango, tava, le - rainfall impacting on flowering season of trees impacting food resources for plans, cyclones)* 2. *Waste disposal (contaminating and pollution to the area).* |
| **Proposed conservation measures to alleviate pressure** |  |
| **Responsible visitation at area.** | *Determine allowable number of visitors or traffic to the area and conditions for visits.* |
| Legal framework | *State the rules and regulations relevant to the area*  Enviromment Act 2015  Land Act 1969  Niue Amendment Act No.2 1968  Domestic Fishing1995  Wildlife Act 2015 |
| Natural, Social and Cultural Values | *Suggest the inherent values that govern the relationships between landowners and their land* |
| In situ Management at National and Regional Context. |  |

| Preparer of the Document |
| --- |
| Name:  Title:  Physical Address:  Contact Address: |