



# GOVERNMENT OF NIUE

## CROWN LAW OFFICE

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### PILON ANNUAL MEETING

5-9 December 2008

### NIUE COUNTRY REPORT

#### INTRODUCTION

The last PILON meeting that Niue attended was over 10 years ago. Since then there have been a number of developments; however I will focus on the activities from December 2006.

#### STAFF

The Crown Law Office is a division of the Premier's Department. The Head is the Solicitor-General. There are currently 4 staff of the Crown Law Office; the Solicitor-General, 2 Crown Counsels and an administration officer.

#### RESPONSIBILITIES OF THE CROWN LAW OFFICE

**Executive Branch:** To assist the executive government, and government departments and agencies in the exercise of their functions, including statutory requirements, administrative requirements, legal opinions, and preparation of legal documents and, *inter alia*, commenting on Cabinet Papers, reports and discussion papers.

**Constitutional Law Matters:** The Constitutional Advisor is based in Wellington and provides advice to the Speaker of the Niue Legislative Assembly. The Crown Law office provides advice, as appropriate to Parliamentary Select Committees such as the Bills Committee.

**Administrative Law Matters** The Crown Law office provides advice when called upon to government departments and agencies undertaking core Government Business, including the discharge of statutory functions and responsibilities. This includes the Public Service Commission as well as special projects.

**International Law:** The Crown Law office provides advice and support to the Office of External Affairs for matters relating to external (foreign) affairs. This includes work on Treaties and working with the Niue High Commission based in Wellington. Crown Law also assists with reporting and other requirements for bilateral and multilateral Treaties for which Niue is a member.

Crown Law assists the Executive branch in terms of advising and maintaining Niue's position in relation to its relationship with New Zealand, such as the Halavaka Ke He Monuina Arrangement (2004-2009), and Niue's membership in other regional and international organisations. This would include advising government on international trends, opportunities and risks that may directly or indirectly affect Niue.

#### ACTIVITIES

##### Niue Legislative Review Project

*Aim:* The aim of the Niue Legislative Review ("the Project") is to promote good governance through an appropriate review of the laws applicable in Niue.

Stage One of the Project was completed in 2004 with the enactment of the Interpretation Act 2004 and the Legislation (Correction of Errors and Minor Amendments) Act 2004.

Stage Two of the Project involved the consolidation of the laws and reprinting so that volumes would be sent to all government departments and agencies, and be available for the public. The laws are also available on the government website.

Stage Three of the project involves the reform of 2 subject areas of law per year. The goal in the medium term is to promulgate a number of reform Acts specific to single areas of law such as family, land, judicature and succession. The first step is to consolidate each subject area of law into reprint editions pursuant to the Reprint of Statutes Act 1991.

For the second step the project team will in respect of each subject area identify the current legislation, comment on any special features of it, areas in need of reform and reform options drawn from New Zealand and other overseas legislation.

*Work to date:* The project has prepared the areas of family law and criminal law and Cabinet approval has been granted for the reprint of the Family Law Code and the Criminal Law Code pursuant to the Reprint of Statutes Act 1991.

The reform commentary on the above Codes is still to come. Both Codes have been available since April 2008.

The next 2 subject areas of reform will be the areas of judicature and land. The draft consolidation for reprint for judicature is in draft form for reprint with the reform commentary still to come. The consolidation for land is in preparation.

#### *Additional reform areas indirectly related*

The areas of health, maritime and water resources are being considered with assistance from regional organisations such as SPC and SOPAC. Some of these projects have appointed consultants and some work may be undertaken by the end of the year.

Law reform in the area of immigration is already underway with the Immigration Bill.

### **Legislative Programme**

The Crown Law Office is responsible for the Legislative Programme.

### **Closure of Offshore Services**

Niue legislation in the mid-1990s created an offshore financial centre heavily dependant on international business companies. As a result of the enactment of the Companies Act 2006 and the repeal of the International Business Companies Act 1994, as at 31<sup>st</sup> December 2006 the Niue International Business Companies Registry closed and all Niue International Business Companies registered thereunder were effectively dissolved.

The following legislation has been repealed as at 31<sup>st</sup> December 2006:

- Offshore Centre (Miscellaneous Provisions) Act 1994,
- Offshore Insurance Act 1994,

and the revocation of the Offshore Insurance Regulations 1994

The repeal of the Niue's offshore financial legislation means that as of 31<sup>st</sup> December 2006 Niue is no longer a jurisdiction that offers offshore financial services.

The Financial Transactions Reporting Act 2006 and the Terrorism Suppression and Transnational Crimes Act 2006 entered into force on 1<sup>st</sup> December 2006. The Aviation Offences (Amendment) Act 2006 entered into force on 21 December 2006.

### **Niue Financial Intelligence Unit**

The Niue Financial Intelligence Unit ("Niue FIU") as established pursuant to the Financial Transactions Reporting Act 2006 from 1<sup>st</sup> December 2006 is fully operational and operates within the Crown Law Office.

There has been no legal action taken pursuant to any of the AML/CFT legislation and this includes prosecutions, assets seized.

A small number of Cash Transactions Reports have been received at the date of this paper and processed.

In October 2008, the FIU signed a Memorandum of Arrangement with the New Zealand Police Financial Intelligence Unit Concerning cooperation in the exchange of financial intelligence related to money laundering and financing of terrorism

The Niue Monetary Board was re-established in 2006. The Office of the Banking Supervisor was established and is a division of the Premier's Department. The Banking Supervisor has also been appointed.

Niue is a member of the Asia Pacific Group on Money Laundering (APG).

The Niue FIU is a member of the Egmont Group of Financial Intelligence Units (Egmont Group) and on 30 May 2007 was officially welcomed as a member at the 15<sup>th</sup> Plenary of the Egmont Group held in Bermuda.

### **AML/CFT legislative framework compliance**

*Aim:* To ensure compliance with international standards such as the FATF 40 + 9 Recommendations.

Niue's AML/CFT legislation includes -

- Mutual Assistance in Criminal Matters Act 1998
- Proceeds of Crimes Act 1998 (as amended 2007)
- Extradition Act 2007
- United Nations Sanctions (Terrorism Suppression and Afghanistan Measures) Regulations 2004
- Aviation Offences (Amendment) Act 2006
- Terrorism Suppression and Transnational Crimes Act 2006
- Financial Transactions Reporting Act 2006
- Misuse of Drugs Act 2007
- Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and their Destruction Act 2007

### **International Treaty Register**

Crown Law maintains a list of all treaties/conventions and international instruments both bilateral and multilateral to which Niue is a member. The Register also includes Niue's membership to regional and international organisations.

### **Niue Treaty**

Niue is the depository for the Niue Treaty and Crown Law is the designated office for the Niue Government. While Crown Law is the primary agency responsible, it works with External Affairs as well as FFA.

### **Niue Consumption Tax**

The Niue Consumption Tax Bill was introduced to the Niue Legislative Assembly on 1 December and is currently with the Bills Committee. The proposed Niue Consumption Tax or NCT is a tax on goods and services supplied in Niue. NCT is 12.5% and applies to imported goods (although there is a small allowance for low-value imports).

### **General Elections**

The elections were held in June 2008, and resulted in a new Government. Former Attorney General and Secretary to Government Togia Sioneholo is now a Cabinet Minister and is Minister for Finance. Justin Kamupala has been appointed Secretary to Justice.

### **Staff Training**

Crown Counsels Sina Hekau and Nina Hekau both completed their studies in 2007 graduating with Masters in International Law at Victoria University, New Zealand and University of New South Wales respectively..

Peleni Talagi  
Solicitor-General

**Acts enacted since 2006**

<b>No.</b>	<b>Enactment Number</b>	<b>Enactment</b>
1	275	Companies Act 2006
2	276	Mutual Assistance in Criminal Matters Act 2006
3	277	Appropriation (Annual) Act 2006
4	278	Financial Transactions Reporting Act 2006
5	279	Minor Amendments No.2 Act 2006
6	280	Terrorism Suppression and Transnational Crimes Act 2006
7	281	Territorial Sea and Exclusive Economic Zone Amendment Act 2006
8	282	Companies Amendment Act 2006
9	283	Aviation Crimes Amendment Act 2006
10	284	Assembly Members' Interests Act 2006
11	285	Budgetary Measures Act 2007
12	286	Appropriation (Annual) Act 2007
13	287	Public Revenues (Write Offs) Act 2007 Misuse of Drugs Act 2007
14	288	
15	289	Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and Their Destruction Act 2007
16	290	Environment (Amendment) Act 2007
17	291	Proceeds of Crime Amendment Act 2007
18	292	Extradition Act 2007
19	293	Appropriation (Annual) Act 2008
20	294	Pensions and Benefits Amendment Act 2008
21	295	Electric Supply Amendment Act 2008

**Regulations enacted since 2006**

<b>No.</b>	<b>Enactment Number</b>	<b>Regulations</b>
1	2006/1	Customs Tariff Regulations 2006
2	2006/2	Companies Act Commencement Regulations 2006
3	2006/3	Penal Manual Regulations 2006
4	2006/4	Biosafety Regulations 2006
5	2007/1	Departure Control Regulations 2006
6	2007/2	Domestic Fishing (Annual Fees) Regulations 2007
7	2007/3	Transport (Fees) Regulations 2007
8	2007/4	Customs Tariff (Reduction and Elimination of Tariffs) Regulations 2007
9	2007/5	Departure Tax Regulations 2007
10	2007/6	Plant Quarantine Amendment Regulations 2007
11	2007/7	Firearms Safety Regulations 2007
12	2007/8	Ozone Layer Protection Regulations 2007
13	2007/9	Agriculture Quarantine (Fees) Regulations 2007