

**NIUE LAWS
LEGISLATION AS AT DECEMBER 2006**

TERRITORIAL SEA AND EXCLUSIVE ECONOMIC ZONE

WHALE SANCTUARY REGULATIONS 2003

2003/1 ó 14 May 2002

1 Title

These are the Whale Sanctuary Regulations 2003.

2 Interpretation

(1) In these Regulations the words and expressions used have the respective meanings as in the Territorial Sea and Exclusive Economic Zone Act 1997.

(2) In these Regulations, "cetacean" includes ó

All species of whales;

All species of dolphins; and,

All species of porpoises.

3 Niue Whale Sanctuary

(1) The Whale Sanctuary is established in order to give formal recognition of the high level of protection already afforded to cetaceans in marine waters of Niue in accordance with international law.

(2) The Whale Sanctuary comprises the waters of the exclusive economic zone, the territorial sea and the internal waters as defined in the Territorial Sea and Exclusive Economic Zone Act 1997.

4 Protection measures

(1) A person is guilty of an offence if the person kills, harms, harasses, takes or moves any cetacean in the Whale Sanctuary.

(2) A person is guilty of an offence if the person has in his or her possession any cetacean, cetacean part or cetacean product in the Whale Sanctuary.

(3) Unless evidence is produced to the contrary, any cetacean, cetacean part or cetacean product found in the possession of a person in the Whale Sanctuary, is deemed to have been taken in the Whale Sanctuary.

(4) A person is guilty of an offence if the person exports or facilitates the exportation from Niue of any cetacean, cetacean part or cetacean product.

(5) A person is guilty of an offence if the person imports or facilitates the importation into Niue of any cetacean, cetacean part or cetacean product.

(6) Any offence under this regulation is punishable on conviction by imprisonment for not more than 3 months, or a fine not exceeding 2,500 penalty units, or both.

5 Non-lethal research permits

(1) The Cabinet may approve the issuance of a permit for the purpose of non-lethal research intended for the conservation of cetaceans, if the Cabinet is satisfied that the non-lethal research will not result in the killing, harming, harassing, taking or moving of any cetaceans.

(2) The Cabinet may specify conditions in relation to any permit issued under this regulation.

(3) A person is not guilty of an offence under regulation 4 if the person carries out an activity authorised by a permit and under the conditions of the permit.