

Maori Reservations Regulations 1994

(SR 1994/57)

PURSUANT to section 338(15) of Te Ture Whenua Maori Act 1993, Her Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

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These regulations are administered in the Department of Justice.

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1 Title and commencement

- (1) These regulations may be cited as the Maori Reservations Regulations 1994.
- (2) These regulations shall come into force on the 23rd day of May 1994.

2 Interpretation

In these regulations, unless the context otherwise requires,—

The Act means Te Ture Whenua Maori Act 1993

Court means, as the case may require, the Maori Land Court or the Maori Appellate Court or both

Reservation means any land that is set apart as, or is deemed to be, a Maori reservation under section 338 of the Act

Trustees means the body corporate or persons in whom a reservation is for the time being vested, by order of the Court, and by which or by whom the reservation is administered.

3 Trustees

Any trustee for the time being appointed, by order of the Court, in relation to any reservation,—

- (a) Shall, subject to paragraphs (d) to (f) of this regulation, hold office, pursuant to, and in accordance with, the relevant order of the Court, from the date of the order or from such other date as is specified in the order:
- (b) Shall have, during the trustee's term as trustee, in addition to any powers and obligations at law, the powers and obligations contained in these regulations, except to the extent that such powers and obligations are varied by order of the Court made at the time of the trustee's appointment, or at any later time:

- (c) Shall exercise personally the office of trustee and shall have no power to delegate the office of trustee to any other person:
- (d)
- (e) May retire from the office of trustee upon giving notice to that effect to the Court or to the other trustees:
- (f) May be removed from office by order of the Court made at any time and shall cease to hold office from such time as the order shall specify:
- (g) Shall, upon ceasing to hold the office of trustee, comply with any directions of the Court in relation to the reservation and the trustee's office:
- (h) Shall be eligible for reappointment unless removed from office by order of the Court.

Paragraph (d) was revoked, as from 23 May 1994, by section 19(2) Te Ture Whenua Maori Amendment Act 2001/Maori Land Amendment Act 2001 (2001 No 11). See section 19(3) and (4) of that Act as to the saving and validation provisions.

4 Notice of appointment

The trustee or trustees of a reservation shall, on being appointed, give notice of the appointment—

- (a) By publishing, within 7 days of the appointment, in a newspaper circulating in the district in which the reservation is situated, a notice giving details of the appointment; and
- (b) By giving such other, or additional, notice of the appointment as the Court may direct at any time.

5 Display on reservation of permanent notice of reservation

The trustee or trustees of a reservation may display on the reservation a permanent notice that includes—

- (a) The name of the reservation; and
- (b) The name and address of each trustee; and
- (c) A statement that the trustees are the persons responsible, pursuant to an order of the Court, for the administration of the reservation; and
- (d) A statement that any public activity or gathering on, or in relation to, the reservation may not be conducted without the authorisation of the trustee or trustees; and

- (e) Particulars of any other activities or events that require the authorisation of the trustees before those activities or events may be conducted on the reservation; and
- (f) A statement of the requirements of the trustees in relation to applications for authorisation; and
- (g) The address to which applications made under regulation 10 of these regulations should be made by an applicant for an authorisation.

6 Duty of trustees

It shall be the duty, at all times, of the trustees to act in good faith in the exercise of their powers under these regulations, and to administer the reservation in respect of which they are appointed—

- (a) In such manner as will promote the purposes for which the reservation is set apart; and
- (b) For the benefit of the persons for the time being entitled to the use and enjoyment of the reservation; and
- (c) In accordance with the Act and these regulations, and any order of the Court in relation to the reservation.

7 Charter in respect of marae

(1) Subject to subclause (2) of this regulation, where a reservation is a marae, the trustees of that reservation shall draw up, in agreement with the beneficiaries of the marae, a charter for the reservation, which charter may include provision for the following matters:

- (a) The name of the marae:
- (b) A general description of the marae reservation (including a plan if appropriate):
- (c) A list of iwi, hapu, or whanau (whichever is relevant) who are the beneficiaries of the marae reservation:
- (d) The process for nominating and selecting marae trustees:
- (e) Principles to which the trustees will have regard in relation to the marae:
- (f) The manner in which the trustees are to be accountable to the beneficiaries:

- (g) The process by which conflicts between beneficiaries and trustees are to be resolved:
 - (h) The recognition of existing marae committees:
 - (i) The appointment by the trustees of one or more committees for the purposes of carrying out the day to day administration of the marae:
 - (j) The procedure for altering the charter:
 - (k) Provision for the keeping and inspection of the charter:
 - (l) Subject to the provisions of the Act or any regulations made under the Act, such other matters as the beneficiaries of the marae may require.
- (2) Where a reservation that is a marae is to be held for the common use and benefit of the people of New Zealand, the charter for the reservation shall, instead of being drawn up in agreement with the beneficiaries of the marae, be drawn up in agreement with the beneficial owners of the land.

8 Powers of trustees

The trustees of any reservation may, subject to any order of the Court,—

- (a) Authorise activities on the reservation by any person or class of persons:
- (b) Issue permits in relation to any activity on a reservation:
- (c) Apply to the Court for any directions in relation to the administration of the reservation, and the powers and obligations of the trustees:
- (d) Call meetings of interested persons in relation to the administration of the reservation:
- (e) Appoint and employ, on behalf of the trustees, such advisers as the trustees think fit, for the purposes of enabling their better administration of the reservation.

9 Activities requiring prior written authorisation of trustees

- (1) The following activities on a reservation shall require the prior written authorisation of the trustee or trustees—
- (a) The use of any building on the reservation:
 - (b) The promoting or holding of any hui, meeting, or other large gathering of persons within a reservation:

- (c) The promoting or holding of any sports event, competition, or concert within a reservation:
 - (d) Such other activities or events as the trustees may from time to time determine require the prior written authorisation of the trustees.
- (2) Nothing in subclause (1) of this regulation requires the prior written authorisation of the trustee or trustees to be obtained in relation to the conduct on a reservation of a tangi hanga.

10 Application for authorisation

- (1) Any person who desires to promote or hold on any reservation any activity of the kind referred to in regulation 9(1) of these regulations shall make a written application to the trustees.
- (2) The application shall state—
- (a) The full name and address of the applicant:
 - (b) The particular activity for which consent is sought:
 - (c) The area of land, and the buildings, that it is proposed be used or occupied, in relation to the activity:
 - (d) The proposed date, and time of duration, of the activity:
 - (e) The numbers of persons which the applicant proposes might attend the activity and the arrangements the applicant proposes for admission to, and control of, the activity.

11 Power of trustees to request further information

The trustees may, upon receipt of an application to conduct an activity of the kind referred to in regulation 9(1) of these regulations, request further information from the applicant, and the trustees shall not be required to consider the application until the trustees have received that further information, and completed such inquiries, as the trustees may in their discretion require or consider appropriate.

12 Consideration and determination of application

- (1) Subject to regulation 11 of these regulations, the trustees shall meet to consider and determine any application as soon as practicable.
- (2) The trustees may—

- (a) Adjourn consideration of the application until such date as they think fit (being a date not later than the date on which the proposed activity is to take place or begin); or
- (b) Grant the application; or
- (c) Grant the application, subject to such conditions as the trustees think fit; or
- (d) Decline the application.

13 No obligation to give reasons for decision

The trustees shall not be obliged to give to any person any reasons in relation to the trustees' decision or requirements, made under regulation 11 or regulation 12 of these regulations, unless the trustees have been required by an order of the Court to do so.

14 Meetings of persons interested in reservation

- (1) The trustees may, if they consider it desirable, and shall, if required by order of the Court, convene meetings of any persons interested in the reservation.
- (2) Such meetings shall, subject to any order of the Court,—
 - (a) Be held at the reservation or such other place as the trustees may think fit at such time, and for such duration, as the trustees may determine:
 - (b) Be chaired by a trustee, or a person nominated by the trustees:
 - (c) Be notified, if the trustees consider it desirable, by 14 days' notice being given by the trustees—
 - (i) In a notice published in a newspaper circulating in the district in which the reservation is situated; or
 - (ii) In a notice affixed at or near the notice referred to in regulation 5 of these regulations:
 - (d) Be conducted in such manner as the chairperson of the meeting shall direct.

15 Records and accounts

The trustees shall—

- (a) Keep and maintain separate, accurate, and up to date records and accounts in relation to their administration of the reservation:
- (b) Maintain a separate bank account in relation to the reservation and pay into such bank account all money received by the trustees in relation to the reservation:
- (c) Ensure that such separate bank account is operated only by at least 2 signatories for the time being authorised by the trustees to operate the bank account:
- (d) If required by the Court at any time, produce to the Court for examination all records, books of account, and vouchers in the possession or control of the trustees, in relation to the reservation.

16 Provisions applicable where trustee is body corporate

Where a body corporate is appointed trustee of a reservation, that trustee shall, subject to any order of the Court,—

- (a) Ensure that the trustee's decisions are made lawfully in accordance with the constitution of the body corporate by the board of directors or other committee of management of the body corporate:
- (b) Keep such separate accurate records, books of account and minute books, in relation to the administration of the reservation, as are required to distinguish clearly the trustee's role as trustee from any other activities of the trustee.

17 Provisions applicable where trustees are not body corporate

Where the trustees are other than a body corporate as sole trustee, then, subject to any order of the Court,—

- (a) The trustees shall convene and hold a first meeting of trustees within 30 days of their appointment:
- (b) The trustees shall otherwise meet for the dispatch of business at such times and places as the trustees consider appropriate:
- (c) No business shall be transacted at any meeting of the trustees unless a quorum is present:

- (d) Where the number of trustees is 2 or 3, 2 shall constitute a quorum and, where the number of trustees is more than 3, a quorum shall consist of at least one-half in number of the trustees:
- (e) The trustees shall at their first meeting appoint one of their number to act as chairperson and that person shall remain in office until such time as the trustees appoint a new chairperson:
- (f) If the trustees are unable to agree as to the appointment of a chairperson, or for any other reason fail to appoint a chairperson, the Court may appoint a chairperson to hold office for a specified term or until a new chairperson is appointed by the trustees or the Court:
- (g) All questions coming before the trustees at any meeting shall be decided by a majority of the votes of the trustees present at the meeting:
- (h) At every meeting the chairperson, or, in his or her absence, some other trustee chosen by those present, shall preside; and the chairperson or presiding trustee shall have a deliberative vote and also, in the event of an equality of votes on any matter, a casting vote:
- (i) All proceedings and resolutions of the trustees, and proceedings of a meeting convened under regulation 14 or regulation 19 of these regulations, shall be recorded in a minute book to be kept by the trustees for that purpose.

18 Execution of documents

- (1) Except in the case of a deed or other document that is required to be signed by all of the trustees, any deed or other instrument to which the trustees are a party may be signed on behalf of the trustees by a majority of the trustees if the entry into and execution of the deed or other document has been authorised by a resolution of the trustees.
- (2) Where a deed or other instrument is signed in accordance with subclause (1) of this regulation by a majority of the trustees, that deed or other instrument shall be as binding on the trustees as it would have been if it had been signed by all of the trustees.

19 Annual meeting

- (1) The trustee or trustees of a reservation shall, subject to any order of the Court, call an annual meeting in each year, and give 21 days' prior notice of the time and place of the meeting—
 - (a) By publishing, in a newspaper circulating in the district where the reservation is situated, a notice giving particulars of that time and place; and
 - (b) By giving such other, or additional, notice of the time and place of the meeting as the Court may direct at any time.
- (2) The annual general meeting—
 - (a) Shall be open to the attendance of all beneficiaries or other persons for whose benefit the reservation is intended; and
 - (b) Shall be chaired by a trustee, or a person nominated by the trustees; and
 - (c) Shall be conducted in such manner as the chairperson of the meeting directs.
- (3) The trustee or trustees shall at the annual general meeting—
 - (a) Outline the position of the reservation, including the matters undertaken by the trustees in the preceding 12-month period; and
 - (b) Report generally on the trustees' proposals for the administration of the reservation during the next 12-month period; and
 - (c) Give to persons attending the meeting a reasonable opportunity to express their views in relation to the reservation.
- (4) Nothing in subclause (3) of this regulation limits the matters that the trustees may address at the annual meeting or obliges the trustees to prepare or distribute any particular written reports or material.

20 Trustee who ceases to hold office

A person who ceases to hold office as trustee—

- (a) Shall deliver to the remaining trustee, or to the Court, all records and papers in the possession of, or under the control of, the trustee in relation to the reservation:

- (b) Subject to compliance with paragraph (a) of this regulation and subject to paragraph (c) of this regulation, shall be released from any future liability as trustee in relation to the reservation:
- (c) Shall not be released, by virtue of ceasing to hold office, from any liability as trustee arising out of or in relation to actions or omissions of the trustee that occurred while that person was holding the office of trustee.

21 Inquiry into administration of reservation

- (1) The Court may at any time, upon application made to the Court by any beneficiary or person whom the reservation is intended to benefit, conduct or order such inquiry into the administration by any trustee of a reservation, as the Court thinks fit.
- (2) No inquiry shall be conducted by the Court unless—
 - (a) The applicant for such inquiry has filed with the Court a statement, signed by the applicant, containing the detailed grounds upon which the applicant requires the inquiry; and
 - (b) The applicant has given to each trustee a copy of the application made to the Court under subclause (1) of this regulation; and
 - (c) Either—
 - (i) The Court received a written statement, in relation to the application, signed by or on behalf of the trustees; or
 - (ii) The Court has dispensed with compliance with subparagraph (i) of this paragraph.

22 Activities committed in contravention of Act, regulations, or order of Court

- (1) No person shall conduct any activity on a reservation, if the activity, or the manner, time, or duration of the activity, is in contravention of, or not permitted by,—
 - (a) The Act or these regulations or any order of the Court, in relation to the reservation; or
 - (b) Any authorisation for the time being given by the trustee or trustees of the reservation.

- (2) No person shall, without the prior written authorisation of the trustees of a reservation, conduct on that reservation any activity that requires, under these regulations, the prior written authorisation of those trustees.

23 Offences

- (1) Every person commits an offence against these regulations who, without lawful excuse, acts in contravention of, or fails to comply with, regulation 22 of these regulations.
- (2) Every person who commits an offence against these regulations shall be liable on summary conviction to a fine not exceeding \$10.

24 Revocation

The Maori Reservations Regulations 1963¹ are hereby revoked.

MARIE SHROFF,

Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 23 May 1994, replace the Maori Reservations Regulations 1963.

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¹ SR 1963/210