

**1962/10**

**THE LAND ACT REGULATIONS 1949, AMENDMENT NO. 3**

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COBHAM, Governor-General

**ORDER IN COUNCIL**

At the Government Buildings at Wellington this 12th day of February 1962

Present:

THE RIGHT HON. KEITH HOLYOAKE PRESIDING IN COUNCIL

PURSUANT to the Land Act 1948, His 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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**REGULATIONS**

1. These regulations may be cited as the Land Act Regulations 1949, Amendment No. 3, and shall be read together with and deemed part of the Land Act Regulations 1949\* (hereinafter referred to as the principal regulations).

2. The principal regulations are hereby amended by revoking regulation 18, and substituting the following regulation:

“18. (1) This regulation shall apply to the Titi Islands and other islands adjacent to Stewart Island mentioned in the deed of cession of Stewart Island dated the 29th day of June 1864.

“(2) In this regulation—

“‘Beneficial island’ means any one of the following Titi Islands—Herekopare, Horomamae, Huirapa, Kaihuka, Kaimohu, Mokoiti, Mokonui, Pikomamaku, Te Pohomatakiarehua, Pohotuataua, Pohowaitai, Poutama, Rerewhakaupoko, Tamaitemioka, Tia, Timore, Te Wharepuitaha, and Taukihepa; and includes those parts of Taukihepa known as Hapuatoto, Heretatua, Hinekuha, Horomanu Patu, Kaikaiawara, Manuaroto, Paopoko, Parakiore, Pohinewaru, Puketakohe, Puwai, Rahui, Taketu, Te Awaohunu, Timaru, Tukoroua, Upokomatiha, Upokopotete, Waikatua, and Waitakua:

\*S.R. 1949/37

Amendment No. 1: S.R. 1952/181

Amendment No. 2: S.R. 1958/170

- “Beneficial owner’ means a Rakiura Maori who holds a succession order from the Maori Land Court entitling him to any beneficial interest in any beneficial island:
- “Birding season’ means a period commencing on the 1st day of April in any year and ending with the 31st day of May in the same year:
- “Commissioner’ means the Commissioner of Crown Lands for the Southland Land District:
- “Crown island’ means any island that is adjacent to Stewart Island (other than a beneficial island) and is mentioned in the deed of cession of Stewart Island dated the 29th day of June 1864:
- “European’ means a person other than a Rakiura Maori:
- “Rakiura Maori’ means a person who is a member of the Ngaitahu Tribe or Ngatimamoe Tribe and is a descendant of the original Maori owners of Stewart Island:
- “Take’, and all references thereto, include taking, catching, killing, or pursuing, by any means or device; and include also an attempt to take:
- “The said land’ means the beneficial islands and Crown islands described in this regulation.

“(3) It shall not be lawful for any European to enter on the said land without first obtaining a written permit from the Commissioner, and in any case it shall not be lawful for any European to take titi (or muttonbirds) or their eggs from the said land at any time or to enter on the said land in the search or pursuit of titi (or muttonbirds) or their eggs; but this provision shall not prohibit any European who is married to a Rakiura Maori or is the widow or widower of a Rakiura Maori from exercising any right or privilege conferred pursuant to this regulation.

“(4) No Rakiura Maori shall enter the said land earlier than the 15th day of March in any year, or such earlier date as the Commissioner may approve in writing, for convenience of transport, on the recommendation of the Muttonbirders’ Committee appointed to make the necessary transport arrangements. Birding shall not commence earlier than the 1st day of April and must cease with the 31st day of May in each year, and it shall not be lawful for any Rakiura Maori or the spouse of any Rakiura Maori to take titi (or muttonbirds) at any other time.

“(5) No person shall take any parent bird at any time, either on or off the said land.

“(6) Every person making holes in burrows to take out the birds shall cause those holes to be refilled and stopped, where it is possible to do so, so that no water can enter the holes and thereby destroy the burrows.

“(7) Every person taking any dog on to the said land shall keep it properly chained up to prevent it destroying the burrows. If dogs are used to catch the birds, they must be kept by the owner under his absolute control, and he shall be responsible for any damage done by them.

“(8) A beneficial owner shall not require permits to enter any beneficial island in which he has a beneficial interest, but no other Rakiura Maori shall enter any beneficial island in any year without the consent of the majority of owners entitled to a beneficial interest in that island:

“Provided that—

“(a) A beneficial owner may be accompanied by his children or grandchildren; or

“(b) A beneficial owner not wishing to take titi (or muttonbirds) on any such island in any birding season may authorise in writing one or more of his children or grandchildren or one or more of the children or grandchildren of any other such beneficial owner to enter on that island to take titi (or muttonbirds) on behalf of the beneficial owner during that birding season; or

“(c) The European spouse of a beneficial owner may in company of that owner enter on any such island and take titi (or muttonbirds), or, in the event of the beneficial owner not entering on any such island for the purpose of taking titi (or muttonbirds) during any birding season, then his European spouse may, with the consent of that owner, enter on any such island that the beneficial owner has been in the habit of frequenting and take titi (or muttonbirds) during the birding season in respect of which the consent is given. In the event of the death of the beneficial owner before the commencement of the next ensuing birding season, the authority shall extend to that next ensuing season:

“(d) If a beneficial owner dies leaving dependent children, a European to whom the beneficial owner was married may, so long as that European remains unmarried, enter on any beneficial island that the deceased beneficial owner was in the habit of frequenting and take titi (or muttonbirds) for so long as the children of the marriage are dependent upon him or her, or until the youngest of those children attains the age of 18 years, whichever is the sooner.

“(9) Any person desiring to enter upon a beneficial island under an authority given under subclause (8) of this regulation may be required to satisfy the supervisor duly appointed under subclause (12) of this regulation of the validity of that authority:

“Provided that an authority in writing certified by the Commissioner to be valid shall be accepted by the Supervisor for the purposes of this subclause.

“(10) It shall not be lawful for any Rakiura Maori to enter any Crown island without first obtaining the written permission of the Commissioner. The Commissioner may require an applicant for such permission to establish that the applicant is a Rakiura Maori as defined by this regulation. A Rakiura Maori who is married to a European may also make application for permission for his or her spouse to accompany him or her for the purpose of birding. The Commissioner may refuse to issue a permit to any Rakiura Maori who has at any time committed a breach of this regulation, and any permit obtained by the applicant falsely representing that he or she is a Rakiura Maori shall be deemed to be invalid and in breach of this regulation.

“(11) Where a Rakiura Maori who, pursuant to a permit granted under subclause (10) of this regulation, was accompanied on any Crown island by his or her spouse, dies before the commencement of the next ensuing birding season, the spouse may with the permission of the Commissioner enter on that island and take titi (or muttonbirds) during that next ensuing season.

“(12) The Rakiura Maoris frequenting any island forming part of the said land or any part of any such island may at the annual meeting held in accordance with subclause (13) of this regulation nominate one of their number, who, after appointment by the Commissioner, shall be the Supervisor for the particular island or part of an island. The Supervisor shall for the purposes of this regulation have power to allot manus (or bird-catching areas) to different parties, and generally to supervise the conduct of operations on the area under his supervision. He shall be required to report to the Commissioner any infringement of this regulation. Failing the nomination of a Supervisor for any area, the Commissioner may make the appointment.

“(13) Not later than the 23rd day of February in each year, the Commissioner shall call a meeting of all interested Rakiura Maoris for the purposes of issuing permits to enter on Crown islands and the nomination of Supervisors in accordance with subclause (12) of this regulation. Applications for permits must be made in writing to the Commissioner. Notice of the calling of this meeting shall be given by the Commissioner by notice advertised in leading daily newspapers published in the Southland, Otago, and Canterbury Land Districts not later than one month before the date set for the meeting.

“(14) If there is any dispute between Supervisors concerning the allotting of manus (or bird-catching areas) or any other dispute arising out of these regulations, the dispute shall be referred to the Commissioner at the next meeting held in accordance with subclause (13) of this regulation, and the Commissioner shall then call a meeting of the Supervisors or other parties concerned to settle the dispute. Failing agreement being reached by the Supervisors or parties, or if they do not attend the meeting so called, the Commissioner shall make the decision, which shall be final and binding on all parties.

“(15) No person shall light any fire on the said land except for domestic purposes or a signal fire in cases of emergency, and any fire originating from torches or otherwise accidentally must be immediately extinguished by the person causing it to be lit.

“(16) All Rakiura Maoris frequenting the said land shall take all necessary precautions to provide for the exclusion and destruction of vermin, such as rats, mice, stoats, and weasels.

“(17) Every person taking titi (or muttonbirds) must immediately deposit at sea all refuse and offal therefrom and must not allow the same to accumulate and become a nuisance and menace to health.

“(18) No Rakiura Maori or other person authorised to enter on any beneficial island shall build or erect any house, whare, or other building on any beneficial island, except on a site agreed to in writing by the majority of the beneficial owners present on their island in the year the site is selected. Every such house, whare, or other building shall be the sole property of the person erecting it, and shall not be removed or destroyed without that person's consent.

“(19) The Commissioner, or any person appointed by him, may lay an information against any person who commits a breach of this regulation, and may seize all titi (or muttonbirds) which he reasonably believes to have been illegally taken or to be illegally had in possession without lawful excuse. All titi (or muttonbirds) found in the possession of any person on or in the vicinity of the said land shall be presumed to have been taken contrary to the provisions of this regulation until proof to the contrary is given.

“(20) No person shall take any cat, or cause any cat to be taken, on to the said land.

“(21) The Commissioner, or any person appointed by him in writing, may enter any part of the said land at any time to ensure that no breaches of this regulation are being committed, and any person who hinders or obstructs the Commissioner or his appointee commits a breach of this regulation.

“(22) Any person who commits a breach of this regulation is liable on summary conviction to a fine not exceeding £5.”

T. J. SHERRARD,  
Clerk of the Executive Council.

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#### EXPLANATORY NOTE

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

These regulations prescribe new conditions under which muttonbirds may be taken on the Titi Islands and other islands adjacent to Stewart Island.

The principal changes relate to the definition of the persons entitled to enter the islands and take muttonbirds. The new provisions define the rights of the children and grandchildren of beneficial owners of those islands to enter, and also the rights of the spouse of a beneficial owner where that spouse is not also a Rakiura Maori entitled to enter and take muttonbirds in his or her own right. The rights of the spouse of a deceased Rakiura Maori to enter and take muttonbirds are also defined.

The regulations also include other miscellaneous changes in order to accord with existing conditions and practices that have been accepted by Maoris operating in the islands.

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Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 15 February 1962.

These regulations are administered in the Department of Lands and Survey.