

1957/31



THE MAORI ASSEMBLED OWNERS REGULATIONS 1957

C. W. M. NORRIE, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington this 27th day of February 1957

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Maori Affairs Act 1953, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

REGULATIONS

PRELIMINARY

1. These regulations may be cited as the Maori Assembled Owners Regulations 1957, and shall come into force twenty-one days after the date of their notification in the *Gazette*.

2. In these regulations, unless the context otherwise requires,—

“The Act” means the Maori Affairs Act 1953:

“Assembled owners” has the meaning given to that term by section 305 of the Act:

“Court” means the Maori Land Court:

“Officer” has the meaning given to that term by the Public Service Act 1912:

“Owners” has the meaning given to that term by section 305 of the Act:

“Recording officer” means an officer appointed as such under section 310 of the Act:

“Registrar” means the Registrar of the Court for the district in which is situated the land to be dealt with by the meeting of assembled owners; and includes a Deputy Registrar where there is no Registrar, or in any case where the Deputy may lawfully act for and on behalf of the Registrar.

Terms and expressions used in these regulations shall, unless the context otherwise requires, have the meanings assigned to them by section 2 of the Act.

NOTICES OF MEETINGS OF ASSEMBLED OWNERS

3. (1) As soon as possible after the time and place of a meeting of assembled owners has been fixed under section 307 (8) of the Act, a notice of the meeting shall be forwarded by the Registrar to every owner not under disability and to the trustee for every owner under disability where the addresses of those persons are available to the Registrar either from the search filed by the applicant or in a readily accessible form from the records of the Court, and to such other persons, including the applicant and his solicitors, as the Registrar may think fit or the Judge may direct.

(2) The Registrar shall record on the file the names and addresses of all persons to whom notices have been sent under this regulation.

4. All notices under regulation 3 hereof shall be despatched by the Registrar not later than fourteen clear days before the date of the meeting. If the Court or the Registrar think it necessary, any such notice shall be accompanied by a Maori translation thereof or by a sketch plan of the land affected or by both, and public notice of the meeting may be given in a newspaper circulating in any district where a number of the owners reside.

5. In order to assist any persons who live at a distance from the place of the meeting to vote by proxy if they so desire, the Registrar shall send a proxy form with each notice and may mention in the notice the names and addresses as shown in his records of up to seven adult owners who appear to reside near the place of the meeting.

6. If applications have been lodged by different persons in respect of the same land, all the proposed resolutions in the applications shall, unless the Court otherwise directs, be included as alternatives in the same notice of meeting, in the order in which the applications were lodged.

PROXIES

7. (1) Any owner or the trustee for any owner under disability may appoint a proxy to attend and vote on his behalf.

(2) The proxy for an owner shall be an owner or the wife or husband of an owner but the proxy for the trustee for an owner under disability may be any adult person.

8. No appointment of a proxy shall be valid unless the proxy form is properly completed and the signature of the owner or trustee is witnessed by one of the persons mentioned in section 111 (1) of the Act or by an officer of the Department of Maori Affairs.

9. No person shall act as proxy for any owner or trustee at any meeting of assembled owners after the death of the owner or trustee or if a cancellation of his appointment has been lodged with the Registrar or the Recording Officer within the time allowed by regulation 11 hereof.

10. (1) Any person who appoints a proxy may limit that proxy's authority by directing him to vote against any sale or lease or other proposed resolution affecting the land, and the proxy shall not be competent to vote on behalf of any such person contrary to his directions. In all other cases a proxy may vote in such manner as he considers will be in the best interests of the person appointing him.

(2) If a person who has appointed a proxy attends the meeting personally, the proxy shall not vote for him if that person elects to vote personally.

11. (1) Except where the Registrar makes some other provision in the notice of the meeting, no person shall be entitled to vote as proxy at a meeting unless the instrument containing his appointment is either handed to the Recording Officer at any time before voting commences on any motion or proposed resolution on which the proxy proposes to vote or lodged with the Registrar not later than ten o'clock in the forenoon of the working day immediately preceding the date of the meeting and unless the Recording Officer or the Registrar is satisfied that the appointment is in order.

(2) If any instrument of appointment is ruled to be out of order, the reason for the ruling shall be certified on the instrument.

(3) Where any instruments of appointment are lodged with the Registrar he shall, in such manner as he thinks fit, notify the Recording Officer before the commencement of the meeting of the contents of all such instruments as appear to him to be in order.

(4) The Recording Officer shall, on request, give to any person entitled to attend the meeting an opportunity to inspect any instrument of appointment handed to the Recording Officer and to raise any objection to the instrument.

CONDUCT OF MEETINGS

12. No meeting shall commence until the Recording Officer and at least three individuals entitled to vote are personally present at the place appointed for the meeting.

13. (1) If no quorum is present within one hour of the time appointed for the meeting, the Recording Officer may adjourn the meeting to such time and place as he thinks fit after consulting with the owners, trustees of owners, and any applicants present.

(2) If the adjournment is for more than twenty-four hours it shall be for a period of at least three weeks and the Registrar shall send out fresh notices to the owners.

14. If for any reason no Recording Officer is present within two hours of the time fixed for the meeting, the meeting shall stand adjourned to such time and place as the Registrar shall fix by fresh notice of meeting:

Provided that if the Recording Officer is delayed by transport difficulties but is able by telephone, telegram, or other means to communicate with the owners or trustees who attend at the time and place fixed for the meeting, he may postpone the commencing time of the meeting until such time as he expects to be able to be present.

15. (1) At the commencement of the meeting the Recording Officer shall record and incorporate in the minutes the names and shares of the owners who are present, or represented by trustees or by properly appointed proxies.

(2) Except as provided in regulation 19 hereof, no other persons who are not officers of the Department or solicitors acting for owners shall be entitled to be present without the leave of the meeting.

16. (1) The Recording Officer shall act as Chairman of the meeting and shall conduct the business thereof.

(2) The Chairman shall have a duty to make available to the meeting all relevant information from the Court records which would assist those entitled to vote to make a proper decision on the proposed resolutions before the meeting. He may also speak and advise the meeting as to what in his opinion is the proper course to take under any particular circumstances.

17. Any meeting may be adjourned by resolution to such time and place as the resolution appoints and the Chairman agrees to, and it shall be in the discretion of the Registrar as to whether or not fresh notices shall be sent out.

18. As soon as preliminary matters have been disposed of, the Chairman shall read and explain the notice of the meeting and give any other available information.

19. (1) Each applicant shall be entitled to attend the meeting either personally or with or by a solicitor or agent or both for the purpose of explaining and supporting his proposed resolution.

(2) Applicants shall be entitled to be heard in the order in which their proposed resolutions appear in the notice of the meeting.

(3) After all applicants have been heard and have answered any questions put to them by the owners, they and their solicitors or agents shall retire from the meeting unless those entitled to vote otherwise agree, but may at any time thereafter be recalled by the meeting.

(4) If any applicant who is also an owner or the trustee of an owner is required to retire under this regulation or under regulation 21 hereof he may exercise his votes before he retires.

20. No proposed resolution referred to in the notice of the meeting shall be put to the meeting until all applicants and any owner, trustee, or proxy who wishes to speak has had an opportunity of being heard.

21. If during the course of his address or at any other stage before the applicants retire (where there are competing applicants), any applicant indicates that he would be prepared to agree to some amendment of his proposed resolution, the Chairman shall give all applicants an opportunity of handing to him a written statement of any amendments of their proposed resolutions which they would be prepared to agree to. In every case where this is done all the applicants and their solicitors and agents (if any) shall retire from the meeting until the persons entitled to vote have voted on the proposed resolutions and any amendments thereto.

22. When the meeting is ready to vote, the Chairman shall formally submit to the meeting all the proposed resolutions as set out in the notice summoning the meeting, and shall explain to the meeting the rights given by subsection (2) of section 308 of the Act if the proposed resolutions are rejected and the effect of subsection (3) of section 315 of the Act.

23. If the notice of the meeting includes more than one proposed resolution, the proposed resolutions shall be put to the meeting in the order in which they appear upon the notice unless the meeting resolves to consider them in any other order.

24. (1) Before any proposed resolution is voted upon, the persons entitled to vote shall be given an opportunity of moving any modifications thereto which they may wish to move under section 312 of the Act.

(2) If any such modification is carried, the proposed resolution as amended shall thereupon be put to the meeting.

(3) If a proposed resolution is carried in an amended form, the applicant shall be recalled to the meeting (if he had been present and had retired under these regulations) and asked whether he is prepared to accept the resolution in the form in which it was passed. If he informs the meeting that he is not prepared to accept the resolution in that form, the resolution shall be deemed to have been lost.

25. If a resolution is carried, all other proposed resolutions referred to in the notice of the meeting inconsistent with the resolution carried and not previously disposed of shall be deemed to have been lost, but any other proposed resolutions not inconsistent with the resolution carried shall be disposed of by the meeting.

26. If all the proposed resolutions referred to in the notice of the meeting are lost, the Chairman shall, if section 308 (2) of the Act is applicable, give those entitled to vote at the meeting an opportunity to move a resolution under section 315 (1) (e) of the Act and shall explain that any such resolution cannot be confirmed by the Court until the Maori Trustee has consented thereto.

27. (1) When the meeting is ready to vote on a proposed resolution, the Chairman shall call for a show of hands of those in favour and of those against.

(2) If any individual entitled to vote on behalf of more than one person (including himself) casts a vote, he shall, unless he informs the Chairman to the contrary, be deemed to have voted on behalf of all persons for whom he is entitled to exercise an unrestricted vote.

(3) Unless he elects not to vote, a proxy whose authority has been limited by the person appointing him shall be deemed to have voted on behalf of that person in accordance with the limitations upon his authority.

(4) If the voting as so counted is not unanimous, the Recording Officer shall record in the minutes either separately or in columns opposite the list of names and shares prepared under regulation 15 hereof, the names and shares of those entitled to vote who vote for and against respectively. The result of the voting shall be declared to the meeting.

28. Every resolution, when carried, shall be reduced to writing and certified by the Recording Officer as a correct transcription of the resolution. His certificate shall be countersigned by at least one person present at the meeting and entitled to vote.

29. The Recording Officer shall keep minutes of all material parts of the proceedings of the meeting and shall report the result to the Court.

30. The Recording Officer shall inform any owner, trustee, or proxy who has voted against a resolution which has been passed of his right if he so desires to sign a memorial of dissent in the presence of the Recording Officer within fourteen days after the date of the meeting.

31. No meeting of assembled owners and no proceedings at any such meeting shall be invalid by reason of any irregularity in the summoning or the conduct of the meeting or in the proceedings at the meeting or by reason of any failure to comply with the directions contained in

these regulations if it appears that the meeting was summoned and the proceedings conducted in accordance with the principles laid down in the Act and in these regulations and that the irregularity or failure did not affect the result of the proceedings.

32. For the purposes of these regulations there may be used such forms as may from time to time be prescribed by Rules of Court.

T. J. SHERRARD,
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 prescribe the procedure to be followed at meetings of assembled owners of Maori freehold land or of land owned by Maoris under the provisions of Part XXIII of the Maori Affairs Act 1953. The meetings are held for the purpose of considering resolutions relating to the disposition of the land.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 28 February 1957.

These regulations are administered in the Department of Maori Affairs.