

1969/144



THE MAORI LAND COURT RULES 1958, AMENDMENT
NO. 1

ARTHUR PORRITT, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington this 21st day of July 1969

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 rules.

ANALYSIS

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| <ul style="list-style-type: none"> 1. Title and commencement 2. Rehearing 3. Partition 4. Compliance with Part II of the Counties Amendment Act 1961 5. Alienation by vesting orders 6. Proceeds of alienation | <ul style="list-style-type: none"> 7. Amendment or cancellation of orders by the Chief Judge 8. Memorial of assignment by way of security over vested land or reserved land 9. Notice of appeal 10. First Schedule amended 11. Redundant rules and forms revoked Schedule |
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RULES

1. Title and commencement—(1) These rules may be cited as the Maori Land Court Rules 1958, Amendment No. 1, and shall be read together with and deemed part of the Maori Land Court Rules 1958* (hereinafter referred to as the principal rules).

(2) These rules shall come into force on the fourteenth day after the date of their notification in the *Gazette*.

2. Rehearing—Rule 33 of the principal rules is hereby amended by omitting from subclause (2) the word “fourteen”, and substituting the words “twenty-eight”.

3. Partition—(1) Rule 82 of the principal rules is hereby amended by revoking paragraph (1) of subclause (2) and subclause (7).

(2) The First Schedule to the principal rules is hereby consequentially amended by omitting from form 116 the words “District Town and Country Planning Scheme, if any, affecting land:”.

4. Compliance with Part II of the Counties Amendment Act 1961—The principal rules are hereby amended by revoking rule 83 and substituting the following rule:

“83. (1) Where any proposed partition of land within a county provides for one or more parcels or allotments of an area less than ten acres so as to require approval by the Council of a preliminary plan under section 432A of the Act (as inserted by section 23 (1) of the Maori Affairs Amendment Act 1967) the Court may, without the lodging of an approved plan, give such directions as it thinks necessary as to the preparation of a plan for submission to the Council for its approval and as to the making of application for the approval.

“(2) On the hearing of an application for partition in accordance with a plan approved under section 432A of the Act, the plan shall be produced to the Court and a copy of the same shall be lodged in the Court.”

5. Alienation by vesting orders—(1) Rule 93 of the principal rules is hereby amended:

(a) By revoking subclauses (2) and (3); and

(b) By omitting from subclause (8) the words “, form 159, or form 160”, and substituting the words “or form 159”.

(2) The First Schedule to the principal rules is hereby amended by revoking forms 157, 158, 159, and 160, and substituting the forms 157, 158, and 159 set out in the Schedule to these rules.

6. Proceeds of alienation—Rule 97 of the principal rules is hereby amended by omitting from subclause (4) the words “, if the proceeds of the alienation have been paid to the Maori Trustee,”.

7. Amendment or cancellation of orders by the Chief Judge—Rule 119 of the principal rules is hereby amended by inserting in subclause (7), after the word “report”, the words “unless the Chief Judge shall have otherwise directed,”.

8. Memorial of assignment by way of security over vested land or reserved land—(1) The principal rules are hereby amended by inserting in Part V, after rule 130, the following rule:

“130A. (1) A memorial of assignment by way of security under section 4B of the Maori Vested Lands Administration Act 1954 (as inserted by section 151 of the Maori Affairs Amendment Act 1967) or under section 10A of the Maori Reserved Land Act 1955 (as inserted by section 154 of the Maori Affairs Amendment Act 1967) of an equitable and beneficial freehold interest in Maori vested land or Maori reserved land, shall be in form 300A.

“(2) The fee payable for the registration of a memorial of assignment in form 300A and the fee payable for the cancellation of an entry in the Court’s records relating to any such assignment shall, in each case, be \$1.”

(2) The First Schedule to the principal rules is hereby amended by inserting, after form 300, the form 300A set out in the Schedule to these rules.

9. Notice of appeal—The principal rules are hereby amended by revoking rules 136 and 137, and substituting the following rule:

“136. (1) Every notice of appeal shall be in form 304 or form 305, and shall embody or have attached thereto a statement setting forth the grounds of appeal. The notices and statement shall be signed by the appellant or by his solicitor on his behalf and shall be lodged with the Registrar within two months after the date of the minute of the order or determination appealed from.

“(2) Every notice of appeal which is signed by the appellant personally shall be attested.

“(3) Except as provided in subclause (4) of this rule, a separate notice of appeal shall be filed in respect of each final order appealed against.

“(4) Where several orders under any one of the provisions of Part XII of the Act relating to succession have been made at the same time or at the same sitting of the Court in respect of the interests of one deceased person in several blocks, and some or all of such orders have been made in favour of the same person or persons, appeals from any such orders made in favour of the same persons may be included in one notice of appeal and the whole shall be treated as one appeal.

“(5) After a notice of appeal has been filed all subsequent proceedings in the matter, other than proceedings under subclauses (1) to (4) of rule 138 or subclauses (1) and (2) of rule 139 hereof, shall be deemed to be in the Appellate Court.

“(6) Upon the filing of a notice of appeal, the Registrar shall forthwith give notice of the same to the parties affected thereby:

“Provided that where it appears to the Registrar that there are several persons having the same interest, such as members of one family, it shall be sufficient to give notice to such persons as the Registrar in his discretion thinks fit, as representatives of the persons affected.

“(7) Where a party has been represented in the lower Court by a solicitor, notice shall also be given to that solicitor.

“(8) A copy of every such notice shall be filed with the notice of appeal before the same is transmitted to the Chief Judge under subclause (9) of this rule.

“(9) After recording the notice of appeal and giving the notices as provided in subclause (6) of this rule, the Registrar shall forward the same to the Chief Judge who shall direct what sum of money, if any, shall be lodged with the Registrar by the appellant as security for costs and the preparation of the copy of the record of the proceedings for the use of the Appellate Court, and shall fix the time within which any such sum shall be so lodged.

“(10) The Registrar shall forthwith notify the appellant of the sum so fixed and the time within which the same is to be lodged. The notice shall be in form 306.

“(11) The Chief Judge may, on application made by the appellant within the time so fixed, extend the time for lodging any such security and may, if he thinks fit, reduce the amount thereof.

“(12) The Chief Judge may, if he is of the opinion that the statement of the grounds of appeal does not state those grounds sufficiently explicitly, require the appellant to lodge with the Registrar within a specified time a more explicit statement of any such grounds, and the Registrar shall forthwith give notice thereof to the appellant.

“(13) Where a notice of appeal has been filed against any order or orders the Chief Judge may reduce or remit the fee on any notice of appeal which may be filed against any other order or orders made in the same proceedings and on the same day as the first-mentioned order or orders.”

10. First Schedule amended—The First Schedule to the principal rules is hereby amended—

- (a) By omitting clauses (5), (6), and (7) from form 164, clauses (11), (12), and (13) from form 165, and clauses (8), (9), and (10) from form 166, and substituting in each case a clause, numbered respectively, (5), (11), and (8), as follows:

“That there is not upon the land comprised in the instrument of alienation any millable timber, mineral, or other valuable thing (*or* details known of any such millable timber etc.):”

- (b) By omitting from form 303 (as amended by section 7 (1) of the Decimal Currency Act 1964) the words “Fee: \$4.”, and substituting the words “Fee: \$2”.:
(c) By omitting from form 304 (as so amended), and also from form 305 (as so amended), the words “Fee: \$4.”, and substituting in each case the words “Fee: \$10.”.

11. Redundant rules and forms revoked—(1) The principal rules are hereby amended by revoking rules 64, 77, 78, 79 (3)–(7), 85 (2), 89 (6), 92 (4)–(5), 94 (2) and (4) (c), 95, 98, 99 (10), 104 (3), 120 to 128, and 142.

(2) The First Schedule to the principal rules is hereby amended by revoking forms 80 to 82, 99 to 104, 107 to 110, 124, 147, 148, 163, 169 to 174, 218, 275 to 293, 313 and 314.

(3) Rule 79 of the principal rules is hereby consequentially amended by omitting from subclause (8) the words “, subclause (3), or subclause (5)”.

(4) The Second Schedule to the principal rules is hereby consequentially amended by revoking so much thereof as relates to the fees payable upon the filing of forms 80, 84, 99, 101, 103, 107, 109, 170, 172, 275, 277, 286, 287, 288, 292, and 313.

SCHEDULE

RR. 5 (2), 8 (2)

NEW FORMS INSERTED AND SUBSTITUTED IN THE FIRST SCHEDULE TO THE PRINCIPAL RULES

Form 157

R. 93 (1)

APPLICATION FOR VESTING ORDER

The Maori Affairs Act 1953, Section 213

In the Maori Land Court of New Zealand, District

Block.

I, hereby apply for a vesting order under section 213 of the Maori Affairs Act 1953, vesting shares owned by me out of the total of shares in the above-mentioned block in of

The shares to be transferred are at present held by me as the beneficial owner (or executor) (or administrator) (or [state other capacity in which shares are held]) and the vesting order is sought to give effect to the agreement endorsed hereon or annexed hereto (or [state purpose e.g. to transfer shares to persons beneficially entitled])

Dated the day of 19

Fee: \$2.

Applicant:

Address:

Form 158

R. 93 (8)

VESTING ORDER

The Maori Affairs Act 1953, Section 213 (1) [or (5)]

In the Maori Land Court of New Zealand, District

Block.

At a sitting of the Court held at on the day of 19 before Esquire, Judge.

Whereas, of (hereinafter referred to as "the transferor") is the owner of an interest in the Maori freehold land known as, being an undivided share amounting to shares out of a total of shares in the legal (or equitable) estate in fee simple in the said land:

And whereas an arrangement (or agreement) has been entered into between the transferor and of (hereinafter referred to as "the transferee") for the transfer by the transferor to the transferee of of the said shares of the transferor, being the whole (or part) of the said undivided share, by way of gift (or in consideration of the payment by the transferee to the transferor of the sum of \$):

And whereas the Court is satisfied that it is lawful and proper for it to make this order:

Now therefore for the purpose of giving effect to the said arrangement (or agreement) it is hereby ordered that of the said shares of the transferor, being the whole (or part) of the said undivided share, be and the same are hereby vested in the transferee:

And the Court doth hereby determine that the value of the interest in land passing under this order is \$.....

Given under the Seal of the Court.

Judge or (Deputy) Registrar.

It is hereby certified that this order is exempt from stamp duty by virtue of the provisions of subsection (2) of section 214 of the Maori Affairs Act 1953 (or that all stamp duty payable on this order has been paid).

Dated this day of 19.....

(Deputy) Registrar of the Maori Land Court, District.

Form 159

VESTING ORDER

R. 93 (8)

The Maori Affairs Act 1953, Section 213 (4)

In the Maori Land Court
of New Zealand,
..... District

.....Block.

At a sitting of the Court held at on the day of 19..... before, Esquire, Judge.

Whereas, of (hereinafter referred to as "the owner") is the owner of an interest in the Maori freehold land known as, being an undivided share amounting to shares out of a total of shares in the legal (or equitable estate) in fee simple in the said land: And whereas the owner holds the said shares in a representative capacity:

And whereas the person(s) (hereinafter referred to as "the beneficial owner(s)") beneficially entitled to the said shares (and the proportions in which the beneficial owners are so entitled) is (or are) specified in the Schedule hereto:

And whereas it is desired to vest the said shares in the beneficial owner(s) (in the said proportions) (or in of (hereinafter referred to as "the trustee") who is acting in a representative capacity for the beneficial owner(s) (or who is the person through whom the beneficial owner(s) claim(s)):

And whereas the Court is satisfied that it is lawful and proper for it to make this order:

Now therefore it is hereby ordered that the said shares be and the same are hereby vested in the beneficial owner(s) (in the said proportions) (or in the trustee).

SCHEDULE

Beneficial Owner(s)

Proportions

Given under the Seal of the Court.

..... Judge or (Deputy) Registrar.

R. 130A

Form 300A

MEMORIAL OF ASSIGNMENT OF EQUITABLE AND BENEFICIAL INTEREST IN MAORI VESTED LAND (or MAORI RESERVED LAND)

The Maori Vested Lands Administration Act 1954 (or The Maori Reserved Land Act 1955)

I, of being the owner of the equitable and beneficial freehold interest(s) in the vested (or reserved) land mentioned in the Schedule hereto, in consideration of the sum of \$ (hereinafter referred to as "the principal sum") lent and advanced to me by of (hereinafter referred to as "the assignee") do, pursuant to section 4B of the Maori Vested Lands Administration Act 1954 (or section 10A of the Maori Reserved Land Act 1955) hereby assign and transfer such interest(s) to the assignee by way of security

To secure the repayment of the principal sum on the day of 19....., with interest thereon in the meantime, and so long as the principal sum or any part thereof remains unpaid, at the rate of \$..... per centum per annum, by half-yearly (or yearly) payments of such interest on the days of the month(s) of in each year, the first of such payments of interest to be made on the day of 19......

(or To secure the repayment of the principal sum together with interest thereon or on so much thereof as shall not for the time being have been repaid at the rate of \$..... per centum per annum by equal monthly (or quarterly) (or half-yearly) (or yearly) instalments of \$..... each, on account of principal and interest, on the days of the months of in every year until the day of 19....., and the repayment on that day of the balance of the principal sum and interest then remaining unpaid, the first of such instalments to be paid on the day of 19......)

As Witness my hand this day of 19.....

SCHEDULE

SIGNED by the above-named } as assignor in the } presence of }

Witness:.....

Occupation:.....

Address:.....

Fee: \$1.

P. J. BROOKS, Clerk of the Executive Council.

EXPLANATORY NOTE

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

These rules make a number of amendments to the Maori Land Court Rules 1958. Most of the amendments are consequential on the passing of the Maori Affairs Amendment Act 1967 and of other amendments to the Maori Affairs Act 1953.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 24/7/69.

These rules are administered in the Maori and Island Affairs Department.