

Serial Number 109/1937.



THE NATIVE HOUSING REGULATIONS, 1936.

Enacting authority : His Excellency the Governor-General in Council.
Act pursuant to which the regulations were made : Section 14 of the
Native Housing Act, 1935.

Date on which the regulations were made : 23rd day of December, 1936.
Date of notification in *Gazette* : 8th day of January, 1937.

REGULATIONS.

REGULATION 1.—PRELIMINARY.

(1) These regulations may be cited as the Native Housing Regulations, 1936.

(2) In these regulations the term “the Act” means the Native Housing Act, 1935.

(3) In these regulations, if not inconsistent with the context, the following terms have the respective meanings assigned to them by the Act, namely :—

“Board” means the Board of Native Affairs constituted under the Board of Native Affairs Act, 1934–35 :

“Dwelling” includes all necessary outbuildings and appurtenances in connection with a dwelling.

REGULATION 2.—APPLICATIONS FOR ADVANCES.

(1) Every person desiring to obtain an advance shall make application therefor in writing signed by the applicant in the form set out in the First Schedule hereto, and shall state therein the various matters indicated by the said form.

(2) Any person who in any application for an advance under the Act makes any false statement is guilty of an offence and shall be liable to a fine not exceeding £5.

(3) Every such application shall be delivered to the Maori Land Board of the district in which is situated the land in connection with which the advance is sought.

(4) The Maori Land Board shall inquire into the subject-matter of the application, but in so inquiring shall be deemed to act in an

executive and not a judicial capacity, and it shall not be necessary to hear the applicant or give the applicant any notice or information regarding the inquiries.

(5) The Maori Land Board shall, on completing its inquiries, forward the application to the Board together with a report of its inquiries and a recommendation as to the application.

(6) The Board shall thereupon consider the application and the report and recommendation of the Maori Land Board and notify the Maori Land Board of its decision thereon, but shall not be bound by any recommendation of the Maori Land Board.

(7) The Maori Land Board shall communicate the terms of such decision to the applicant by letter forwarded to him by post at the address stated in the application.

REGULATION 3.—ADVANCES AND SECURITIES.

(1) If the Board decides to approve an application for an advance it shall as a part of its decision decide the following matters :—

- (a) The amount of the advance :
- (b) The rate or rates of interest to be paid by the borrower :
- (c) The times of repayment of the advance and payment of interest :
- (d) The subject-matter over which security is to be given by the borrower :
- (e) The terms and provisions to be contained in any instrument of security.

(2) The principal sum to be advanced shall be repayable in such one of the following ways as the Board in each case directs :—

- (a) At the expiration of a stated period :
- (b) On demand :
- (c) By periodical equal or unequal payments :
- (d) By equal periodical payments consisting partly of principal and partly of interest :
- (e) In such other manner as the Board in any particular case thinks expedient.

(3) Unless the Board otherwise directs, when security is to be given over any interest in property real or personal there shall be included in the instrument of security a personal covenant by the proprietor or owner of such interest for payment of the amount of the advance and interest thereon and all costs of the advance or incurred by the borrower's default or in exercise of any remedy conferred on the lender.

(4) When security is to be given over any land the instrument of security shall, unless the Board otherwise directs, contain expressly or by implication the covenants and provisions stated and set out in the Second Schedule hereto or provisions to the like effect together with such other provisions as the Board may in any particular case think advisable.

(5) All instruments of security and other documents required in relation to any advance shall be prepared by the Solicitor for the Native Department at the cost of the borrower.

(6) The costs of all instruments of security and other documents shall, unless the Board otherwise directs, be deducted from the advance

and shall, until paid, be charged on the whole of the property comprised in the securities for the advance and shall be according to the scale set out in the Third Schedule hereto.

(7) No decision or direction on the part of the Board as to the maximum amount to be advanced on any application, or as to the rate of interest to be paid, or other terms of the advance, or as to the terms to be inserted in any contract, tender, specification, or other instrument relating to the purposes for which an advance is made, or on any other matter, shall be objected to because such decision or direction is made or given pursuant to any rule laid down by the Board for application either generally or to particular localities.

REGULATION 4.—CONDITIONS OF ADVANCE.

(1) Every advance offered shall if accepted be deemed to have been accepted and every security given shall be deemed to have been given subject to all the conditions and provisions of these regulations.

(2) In the case of an advance for the erection of a dwelling the plans and specifications of the dwelling shall be such as the Board decides upon or approves.

(3) If the borrower desires a dwelling to be erected otherwise than according to plans and specifications decided on by the Board, he shall at his own cost cause proper plans and specifications to be prepared, and shall submit the same for the Board's approval, and the Board may in its discretion reject the same or approve the same with or without modification.

(4) In the case of an advance for any purpose other than the erection of a dwelling the Board may cause plans and specifications to be prepared or may require the borrower to submit plans and specifications for its approval.

(5) The Board may, in all cases, direct or require the preparation of such contracts, tenders, specifications, or other instruments relating to the purposes for which an advance is made as in the circumstances it deems desirable, whether in respect of services, materials, or both.

(6) The borrower shall not in respect of any work, being the purpose of an advance, enter into any contract, engage any workmen, purchase any materials, or commence any works either personally or otherwise howsoever than with the precedent consent of the Board.

(7) If the applicant or borrower fails to observe or comply with the provisions set out in the last preceding clause hereof the Board may, at its discretion, take such failure or non-compliance as a sufficient reason for refusing an advance, or, if any advance has been approved, may withdraw its approval, or, if any payment has been made on account of an advance, may decline to make any further payment and any instruments of security executed shall stand good for the amount theretofore advanced.

(8) Pursuant to the terms of the Act, all persons to whom or on whose behalf advances have been made shall, in all respects, conform to the directions of the Board or its officers in all matters pertaining to the cost, nature, and dimensions of the dwelling proposed to be erected or improved, the approval of plans and specifications therefor, the tender or price for the erection or improvement thereof to be accepted, the application of the moneys to be advanced, the supervision of the

erection or improvement, and generally as to all other matters incidental to the erection or improvement of a dwellinghouse and its conveniences and appurtenances including fencing.

(9) The Board may at any time as a condition of disbursing any sum in respect of an advance that has been approved and before making such disbursement require the borrower to take or defend proceedings in any Court of competent jurisdiction or make or join in making a submission to arbitrators or valuers touching any contract entered into by the borrower or any matter arising out of such contract.

REGULATION 5.—DISBURSEMENT.

(1) No disbursement in respect of an advance shall be made and no step taken in furtherance of the advance until all such security as the Board directs has been duly taken as the circumstances may require.

(2) Pursuant to the terms of the Act, no moneys advanced under the provisions thereof shall, unless the Board otherwise determines, be paid to the applicant, but all such moneys shall be expended or applied by the Board or at its discretion for all or any of the purposes mentioned in the Act.

(3) Unless the Board otherwise in any case directs, an advance for any purpose may be disbursed by progress payments to be made from time to time up to three-fourths of the value of any incomplete work being a purpose for which the advance was authorized :

Provided that no progress payment shall be made except upon a certificate of the value of the work done given by a Supervisor of the Native Department or other person appointed by the Board for that purpose and except upon the express authorization of that payment by the Board.

REGULATION 6.—PAYMENTS OF INTEREST AND PRINCIPAL.

(1) Any money payable to the Crown in respect of an advance whether for interest or principal or otherwise may be paid either—

- (a) To the Public Account ; or
- (b) To any Postmaster ; or
- (c) To a Maori Land Board.

(2) The Board may, at any time, authorize proceedings to be taken in any Court of competent jurisdiction in the name of His Majesty the King for the recovery of any moneys owing in respect of an advance whether for principal, interest, or otherwise, or for relief upon the breach, non-observance, or non-performance of any covenant entered into in respect of an advance, or for the enforcement of any security, or any right or remedy thereby or by law conferred on His Majesty, and an extract from the minutes of the Board authorizing such proceedings and purporting to be verified by the signature of the Under-Secretary of the Native Department shall without proof of such signature be sufficient evidence that such proceedings are duly authorized.

(3) The Board may, at any time, authorize such proceedings as aforesaid to be taken by a Maori Land Board, and upon such authorization the provisions of the last preceding clause hereof shall, *mutatis mutandis*, apply :

Provided that the Board shall not authorize any proceedings to be taken by a Maori Land Board in the Native Land Court for the enforcement of a charge created under section 8 of the Act.

FIRST SCHEDULE.

APPLICATION FOR AN ADVANCE.

(Under the Native Housing Act, 1935.)

To the District Maori Land Board,

I HEREBY apply for an advance on the security of the property described below, under the terms, conditions, and provisions of the Native Housing Act, 1935, and the regulations thereunder.

Dated this day of, 193..

Full name of applicant :

Full address :

Occupation :

Amount of advance required :

Purpose for which advance is required :

1. If applicant desires to erect a dwelling or purchase land and erect a dwelling state—

- (a) Locality of land :
- (b) Description of land :
- (c) Title reference : Vol., Fol., District Land Registry.
- (d) Area :
- (e) Owners :

2. Dwelling :—

- (a) Number of rooms required :
- (b) Kind of dwelling :
- (c) Other particulars :

3. If advance is to effect repairs, alterations, or renovations, state—

- (a) Situation of dwelling :
- (b) Description of land :
- (c) Title reference : Vol., Fol., District Land Registry.
- (d) Area :
- (e) Owners :
- (f) Number of rooms in dwelling :
- (g) Particulars of repairs to be effected :

4. Applicant :—

- (a) Age of applicant :
- (b) State whether married, single, widow, or widower :
- (c) Children :—

Name.	Age.	Sex.
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(d) Other dependants (if any) :—

Name.	Relationship.	Age.	Sex.	Extent of Dependency.
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5. Name and address of applicant's present employer (if any) :

6. Nature of employment :

7. How long has applicant been in his present employment ?

8. Income of applicant :—

(a) Wages or salary per week :

(b) Rent :—

Block.	Share of Annual Rent.	Name of Lessee.	Whether Rent paid through Maori Land Board or Native Trustee or East Coast Commissioner or direct by the Lessee.
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(c) All other income :

9. Income of wife or husband of applicant :—

- (a) Wages or salary per week :.....
- (b) Rent :—

Block,	Share of Annual Rent.	Name of Lessee.	Whether Rent paid through Maori Land Board or Native Trustee or East Coast Commissioner or direct by the Lessee.
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- (c) All other income :.....

10. In what lands has the applicant any interest as owner or otherwise (give complete list) :

11. In what lands has the wife (husband) of the applicant any interest as owner or otherwise (give complete list) :

12. What proportion of your income are you prepared to assign to repay the advance :.....

13. What proportion of income is your wife (husband) prepared to assign :.....
The foregoing answers are true and correct and complete in all respects.

Signature of applicant :.....

SECOND SCHEDULE.

PROVISIONS TO BE CONTAINED IN SECURITIES OVER LAND.

Part I.—Covenants by Owner of Land.

1. A covenant that the person bound thereby (hereinafter referred to as "the mortgagor") will pay to His Majesty the King (hereinafter referred to as "the Crown") the principal sum mentioned in the security with interest thereon in accordance with the provisions of the security.

2. A covenant that the mortgagor will pay to the Crown on demand all costs, charges, and expenses which may at any time be or have been incurred by the Crown in or about the preparation, completion, or registration of the security, or any existing or future security collateral therewith expressed or implied, or in the exercise, or attempted exercise or enforcement of any power, right, or remedy in the Crown in the security or any existing or future security collateral therewith expressed or implied (including the power hereafter conferred for the Crown to observe, perform, or comply with any covenant or provision upon default therein by the mortgagor) or otherwise in consequence of any default by the mortgagor under any such security, together with interest computed from the time of the same respectively being incurred at the rate of five pounds per centum per annum, and that all such costs, charges, and expenses, together with interest as aforesaid, shall, until payment, be included in the charge comprised in the security and be deemed to be part of the principal and interest moneys respectively thereby secured.

3. A covenant that the mortgagor will at all times duly and punctually pay all rates, taxes, and assessments payable in respect of the property charged.

4. A covenant that the mortgagor will at all times comply with all regulations, by-laws, requirements, and directions affecting the property charged, made, issued, or given by any local authority or Maori Council or officer thereof or Medical Officer of Health, Health Inspector, or Sanitary Inspector.

5. A covenant that the mortgagor will not without the written consent of the Board sever from the freehold or remove from its site any building or other fixture whether at the time of entering into the security or any future time erected thereon or affixed thereto, and will at all times keep all buildings and other erections and all improvements on the land subject to the security, whether erected or made

at the time of entering into the security or at any future time, in good and substantial repair, order, and condition, and that any Supervisor of the Native Department, and any other person authorized in that behalf by the Board, may at all reasonable times be at liberty to enter and be upon the property charged and to view and inspect the same and all buildings, erections, and improvements thereon.

6. A covenant that the mortgagor will forthwith insure and, so long as any money remains owing on the security, will keep insured, all buildings and erections of an insurable nature for the time being situate on the property charged against loss or damage by fire to their full insurable value for such respective insurance in the name of the Crown in the State Fire Insurance Office or other reputable insurance office from time to time approved in writing by the Board, and will deliver every policy of such insurance to the Board who shall be entitled to the exclusive custody thereof, and will duly and punctually pay all premiums and sums of money necessary for the purpose of keeping every such insurance on foot, and will not later than seven days before every premium falls due deliver the receipt therefor to the Board.

7. A covenant that the mortgagor will at all times cultivate and manage the land comprised in the property charged in a skilful and proper manner and according to the rules of good husbandry, and will not permit the same to become impoverished or otherwise deteriorated, and that the mortgagor will at all times duly and punctually observe, perform, and comply with the provisions of the Fencing Act, 1908, the Noxious Weeds Act, 1928, and the Rabbit Nuisance Act, 1928, and any Acts for the time being replacing or amending the same respectively, and all regulations and requirements lawfully made thereunder respectively.

8. A covenant that the mortgagor will not fell, cut, lop, burn, destroy, or remove, or permit or contract for the felling, cutting, lopping, burning, destruction, or removal of any bush, timber, or timber-like trees at the time of entering into the security or at any future time standing or growing upon the land comprised in the property charged without the previous written consent of the Board, and so far as such consent may authorize: Provided always—

- (a) That such consent may be given upon condition that all or any proceeds of the operations consented to shall be recoverable by the Crown on account of the moneys secured and/or that the Crown be a party to any contract affecting such operations or providing for the removal or disposal of any such bush, timber, or timber-like trees or the produce thereof:
- (b) That the receipt by the Crown of any such proceeds or the joinder of the Crown in any such contract shall not be deemed to render the Crown liable to account as a mortgagee in possession:
- (c) That if the Crown is a party to any such contract it shall not be obligatory upon the Crown to enforce or exercise any rights or powers thereby conferred on the Crown, or to take any steps or proceedings under any such contract unless the Crown shall think fit, and the Crown shall not be liable for any loss occasioned by delay or omission in any such respect, nor shall any such delay or omission prejudice the security:
- (d) That nothing contained in this covenant shall prevent the mortgagor without the necessity of any consent from felling and cutting such bush, timber, or timber-like trees as may be necessary to provide to a reasonable extent timber or other wood for use upon the said land for any agricultural, pastoral, household, road-making, fencing, or building purpose, or other purpose of farming or husbandry.

9. (*For leaseholds.*) A covenant that the lease under which the mortgagor holds the land is at the time of execution of the security a good, valid, and subsisting lease, and in no wise void or voidable, and that the matters and covenants and obligations on the part of the lessee and conditions by and in the said lease reserved, expressed, and implied have been duly paid, observed, and performed down to the date of the security, and that the mortgagor will at all times duly and punctually pay the rent reserved by the said lease and duly and punctually observe and perform the covenants and obligations on the part of the lessee and conditions therein expressed and implied.

Part II.—Provisoes.

(a) That the power of sale and all ancillary powers set out in clause numbered (7) of the Fourth Schedule to the Land Transfer Act, 1915, shall be implied in the security with respect to the property charged but modified so that such

powers shall be exercisable immediately or at any time after default is made in payment as provided in the security of the moneys thereby secured or any part thereof or immediately upon the breach, non-observance, or non-performance of any covenant on the part of the mortgagor therein expressly or by implication contained, and shall be exercisable without the necessity of making any demand, giving the notice prescribed by the said clause (7) or any other notice, or waiting any period.

(b) That the Crown may pursue all remedies in the security or in any existing or future security collateral therewith expressed or implied or conferred by law for the recovery of the principal, interest, and other moneys secured or any part thereof, or sue upon any covenant for payment thereof or other covenant either before, concurrently with, or at any time after the exercise of such power of sale or other remedy, and no such sale shall discharge such covenant for payment, any rule of law or equity to the contrary notwithstanding.

(c) That if the mortgagor shall make default in the due observance or performance of any of the covenants or provisions in the security or any existing or future security collateral therewith by or on the part of the mortgagor expressed or implied (including covenants relating to insurance) it shall be lawful for but not obligatory upon the Crown to observe, perform, or comply with the same or any of them.

(d) That the Crown shall not be answerable for any involuntary loss arising upon the exercise or attempted exercise or enforcement of any of the powers, rights, or remedies in the Crown expressed or implied in the security.

(e) That any moneys received by the Crown under any policy of insurance may, at the option of the Board, be applied either in or towards rebuilding or repairing the buildings and erections destroyed or damaged, or in or towards payment of the principal, interest, and other moneys for the time being covered by the security notwithstanding that the same or any of them may not have accrued due under the terms of the security, but so that in that event the mortgagor shall have the right to pay off the whole amount remaining due under the security at any time within two months after such application has been made and notified to the mortgagor.

(f) That if the mortgagor shall at any time without the consent in writing of the Board alienate or agree for the alienation of the said land or any part thereof, whether absolutely or conditionally, and whether by way of lease, sale, or otherwise, or by any means (whether by act of parties or operation of law) cease to be entitled to exclusive possession thereof or of any part thereof, or, if without the consent in writing of the Board, the mortgagor or other person named in the security, being the person for the housing of whom the advance was approved, shall cease to reside continuously upon the premises for the purposes of which the advance was approved and to enjoy and exercise actual and exclusive physical occupation thereof, then the whole of the moneys then owing under the security shall (if the Board shall so elect, and notwithstanding any subsequent receipt of principal or interest or other moneys) be deemed to have become immediately due and payable:

Provided that this stipulation shall not apply to cessation of residence and occupation upon the death of the mortgagor or such person as aforesaid, or to an assurance of the land pursuant to the will, or upon the intestacy of the mortgagor.

THIRD SCHEDULE.

COSTS OF SECURITIES.

FOR perusal of title and preparation, completion and registration of a security, and attendances and correspondence connected therewith—

	£	s.	d.
Mortgage of land	2	2	0
Security over chattels	1	1	0
Assignment of moneys (including any notices required)	0	10	6

Together with stamp duties, registration fees, and other disbursements, including agency charges.

Issued under the authority of the Regulations Act, 1936.
These regulations are administered by the Native Department.