

Version
as at 31 October 2022



COVID-19 Response (Requirements For Entities— Modifications and Exemptions) (Māori Trust Boards— Electronic Voting in Elections) Notice 2022

(SL 2022/279)

COVID-19 Response (Requirements For Entities—Modifications and Exemptions) (Māori Trust Boards—Electronic Voting in Elections) Notice 2022: revoked, on the close of 30 October 2022, by clause 3.

This notice is made by the Minister for Māori Development under section 26A of the COVID-19 Response (Requirements For Entities—Modifications and Exemptions) Act 2020 after satisfying the requirements in section 27 of that Act.

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Notice

1 Title

This notice is the COVID-19 Response (Requirements For Entities—Modifications and Exemptions) (Māori Trust Boards—Electronic Voting in Elections) Notice 2022.

Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This notice is administered by the Ministry of Business, Innovation, and Employment.

2 Commencement

This notice comes into force on the day after the date of its notification in the *Gazette*.

3 Revocation

This notice is revoked on the close of 30 October 2022.

4 Interpretation

- (1) In this notice, unless the context otherwise requires,—

Act means the Maori Trust Boards Act 1955

election means an election to which this notice applies under clause 5

regulations means the Maori Trust Boards Regulations 1985

returning officer means the returning officer appointed for the purpose of an election as referred to in section 52 of the Act.

- (2) Any term or expression that is defined in the Act and used, but not defined, in this notice has the same meaning as in the Act.

5 Application

- (1) This notice applies to an election to membership of a Māori Trust Board under Part 3 of the Act if—

(a) the Board informs the chief executive of the Ministry of Māori Development—Te Puni Kōkiri to the effect that it intends to allow, or has allowed, votes in the election to be lodged, or cast and lodged, electronically because of the effects of COVID-19; and

(b) the election is held in the relevant period.

- (2) An election is **held in the relevant period** if—

(a) the public notice of the calling of nominations under section 46(1) of the Act is given after the start of 3 November 2021; and

(b) the result of the voting is recorded under regulation 14(3) of the regulations before the close of 30 October 2022.

- (3) This notice applies to an election regardless of whether—

(a) the Board complies with subclause (1)(a) before, on, or after the commencement of this notice; or

(b) any aspect of the election is carried out before, on, or after the commencement of this notice.

6 Exemptions to enable electronic voting

- (1) The exemptions set out in subclause (2) apply to an election if the conditions in clause 7 are met.

- (2) The exemptions are as follows:

Form of notice of calling of nominations

- (a) the secretary of the Māori Trust Board is exempt from regulation 6 of the regulations, but only to the extent necessary to allow the public notice of the calling of nominations to indicate that—
 - (i) nominations may be provided electronically; and
 - (ii) votes in the election may be lodged, or cast and lodged, electronically:

Form of ballot papers

- (b) the secretary of the Māori Trust Board is exempt from regulation 9(1) and (2) of the regulations, but only to the extent necessary to allow the ballot papers to indicate that votes may be lodged, or cast and lodged, electronically:

Voter's declaration

- (c) a beneficiary who casts their vote electronically is exempt from regulation 10 of the regulations:

Counting votes

- (d) the returning officer for the election is exempt from section 53(1) of the Act, but only to the extent necessary to allow the returning officer to use an electronic system to count the votes that are validly cast electronically:

Recording voting results

- (e) the returning officer for the election is exempt from regulation 14(3) of the regulations, but only to the extent necessary to allow the record of voting to include the results of votes that are lodged, or cast and lodged, electronically.

7 Conditions on elections with electronic voting

- (1) The following conditions apply to an election:
 - (a) the system for casting and lodging votes electronically must meet the conditions set out in subclause (2); and
 - (b) the returning officer must take reasonable steps to ensure that no more than 1 vote is counted for each beneficiary who lodges, or casts and lodges, a vote electronically; and
 - (c) the returning officer must ensure that the results statement provided to the secretary of the Māori Trust Board under regulation 14(4) of the regulations includes the results of all votes validly cast, whether cast by postal ballot or electronically.
- (2) A system for lodging, or casting and lodging, votes electronically must meet the following conditions:

- (a) it must accurately count the votes that are lodged, or cast and lodged, using the system (whether the votes are counted electronically or manually); and
- (b) it must include reasonable measures for verifying the identity of each person who lodges, or casts and lodges, their vote using the system; and
- (c) it must retain the information entered into, or generated by, the system for the purpose of the election for at least 3 months after the declaration of the result of the election; and
- (d) if it retains that information in electronic form, it must retain the information in a way that—
 - (i) is secure and otherwise provides a reliable means for assuring that the integrity of the information is retained; and
 - (ii) is readily accessible so as to be usable for subsequent reference.

Dated at Wellington this 19th day of October 2022.

Hon Willie Jackson,
Minister for Māori Development.

Explanatory note

This note is not part of the notice, but is intended to indicate its general effect.

This notice comes into force on the day after the date of its notification in the *Gazette* and revokes itself at the close of 30 October 2022. It grants exemptions from the Maori Trust Boards Act 1955 (the **Act**) and the Maori Trust Boards Regulations 1985. The exemptions enable votes for membership to a Māori Trust Board to be lodged, or cast and lodged, electronically. Usually, a Board's beneficiaries may vote only by postal ballot.

This notice applies to an election if—

- the relevant Māori Trust Board informs the chief executive of the Ministry of Māori Development—Te Puni Kōkiri that it intends to allow, or has allowed, votes in the election to be lodged, or cast and lodged, electronically because of the effects of COVID-19; and
- the election is held between the start of 3 November 2021 and the close of 30 October 2022.

The effect of the exemptions granted by this notice is to enable the following:

- the public notice of the calling of nominations to indicate that they may be provided electronically and that votes in the election may be lodged, or cast and lodged, electronically:
- ballot papers to indicate that votes may be lodged, or cast and lodged, electronically:
- beneficiaries to cast a vote electronically without needing to sign a hard-copy declaration:
- votes lodged, or cast and lodged, electronically to be counted electronically or manually:
- the record of voting results to include votes that are lodged, or cast and lodged, electronically.

The exemptions apply subject to conditions that are set out in *clause 7*. They include conditions that apply to the electronic voting system used for the election.

Statement of reasons

The Minister for Māori Development has granted the exemptions set out in this notice (and is satisfied that they are appropriate) for the following reasons:

- not all beneficiaries live in the immediate vicinity of their Board's offices and some live overseas:
- delays caused to postal mail because of the effects of COVID-19 could hinder the ability of beneficiaries to participate in the elections:
- communities affected by COVID-19 may not be able to prioritise visits to a mail outlet, and travel restrictions and restrictions on how many people are allowed in a space may make things more difficult:
- uncertainty caused by changing COVID-19 settings may affect the receipt of postal votes within the statutory time frames under the Act:
- electronic voting enables easier participation for beneficiaries, reduces significant costs, minimises travel risks and costs, and reduces the need for physical contact.

In light of those considerations, permitting voting at elections by electronic means is necessary or desirable to ensure that Board elections can take place no matter what the situation is regarding COVID-19 and any related restrictions.

The Minister relied on section 28(3) of the COVID-19 Response (Requirements For Entities—Modifications and Exemptions) Act 2020 not to engage about the exemptions set out in this notice because the Minister was satisfied that the exemptions benefit the Boards and their beneficiaries and do not materially detrimentally affect any person.

Notes

1 *General*

This is a consolidation of the COVID-19 Response (Requirements For Entities—Modifications and Exemptions) (Māori Trust Boards—Electronic Voting in Elections) Notice 2022 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

COVID-19 Response (Requirements For Entities—Modifications and Exemptions) (Māori Trust Boards—Electronic Voting in Elections) Notice 2022 (SL 2022/279): clause 3