Reprint
as at 1 July 2013

Māori Trustee Regulations 2009

(SR 2009/169)

Rt Hon Dame Sian Elias, Administrator of the Government

Order in Council

At Wellington this 15th day of June 2009

Present:
The Hon John Key presiding in Council

Pursuant to section 52 of the Maori Trustee Act 1953, Her Excellency the Administrator of the Government, acting on the advice and with the consent of the Executive Council, and on the recommendation of the Minister of Māori Affairs, makes the following regulations.

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Note
Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

These regulations are administered by Te Puni Kōkiri.

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Regulations

1 Title

These regulations are the Māori Trustee Regulations 2009.

2 Commencement

These regulations come into force on 1 July 2009.

3 Interpretation

In these regulations, unless the context otherwise requires,—

estate means—

(a) the property that the Māori Trustee is entitled to administer—
  (i) as executor or trustee under the will of a deceased Māori; or
  (ii) as the administrator in the estate of a Māori dying intestate; or

(b) the property in respect of which the Māori Trustee is the trustee of a person under disability; or

(c) the property that the Māori Trustee is authorised to administer—
  (i) under a duly executed power of attorney; or
  (ii) as the trustee under a deed of trust or settlement duly executed by the parties entitled to create or make the deed of trust or settlement

person under disability has the meaning it is given in section 210 of Te Ture Whenua Maori Act 1993.

Compare: SR 1954/46 r 3

Commission

4 Māori Trustee may charge commission

(1) The Māori Trustee may charge commission for the matters provided for in the Schedule.

(2) This regulation does not limit the application of section 48 of the Maori Trustee Act 1953.

Compare: SR 1954/46 r 4

Fees

5 Fees payable by Māori Trustee to High Court

[Revoked]

Regulation 5: revoked, on 1 July 2013, by regulation 25 of the High Court Fees Regulations 2013 (SR 2013/226).

6 Fees payable to Māori Trustee

(1) In respect of the matters specified in subclause (2), the Māori Trustee may charge such reasonable fee (plus goods and services tax, if any) that the Māori Trustee considers appropriate in the circumstances, having regard to the nature of the work and the time involved.

(2) The matters are—
  (a) conveyancing work undertaken by solicitors employed by the Māori Trustee:
  (b) the execution or discharge of a memorial of charge by the Māori Trustee:
  (c) the production of titles:
  (d) the giving of consent by the Māori Trustee to any plan of subdivision:

(e) the giving of consent by the Māori Trustee as lessor or mortgagee in relation to leasehold transactions:

(f) the services of the Māori Trustee in clearing or otherwise putting in order the title to any land:

(g) the administration of any sinking fund created for the purposes of meeting compensation for improvements:

(h) the preparation and filing of any record relating to—

(i) the condition of any land subject to a lease; and

(ii) the particulars of any improvement made or to be made on that land.

(3) No fee is payable under subclause (2)(f) if the Māori Trustee is acting as the agent of the owners under Part 9 of Te Ture Whenua Maori Act 1993 in the sale of the land.

(4) Any fee charged under subclause (2)(g) may be charged only on the termination of the sinking fund.

(5) This regulation does not limit the application of section 48 of the Maori Trustee Act 1953.

Compare: SR 1954/46 r 5A

7 Management fee

(1) The Māori Trustee may charge or retain a reasonable management fee (plus goods and services tax, if any) for the management of the funds held in trust in the Common Fund.

(2) Subclause (1) does not apply if, and to the extent that, the Māori Trustee is paid a commission or a fee under regulation 4 or 6 respectively for the management of the funds held in trust in the Common Fund.

(3) The management fee that may be charged under subclause (1) is to comprise—

(a) a base fee calculated monthly on the gross market value of the Common Fund on the last day of the month to which the calculation relates; and

(b) a supplementary fee to reimburse the Māori Trustee for expenses, costs, and liabilities incurred by the Māori Trustee in the relevant month in managing the funds held in trust in the Common Fund, to the extent that such expenses, costs, and liabilities are not covered by the base fee charged under paragraph (a).

(4) The management fee determined in accordance with subclause (3)—
  (a) is a liability of the Common Fund as at the last day of the month to which the calculation relates; and
  (b) must be paid from the Common Fund to the General Purposes Fund no later than the last day of the month following the month to which that calculation relates.

Common Fund

8 Calculation of distributable income

The distributable income that must be paid under section 26(2) of the Maori Trustee Act 1953 must be calculated as follows:
  (a) the Māori Trustee must apply the formula set out in section 26(3) of the Maori Trustee Act 1953 each month to calculate the total amount of distributable income for the month to which the calculation relates; and
  (b) the entitlement of an account in the Common Fund to a share of the total distributable income calculated under paragraph (a) must be determined each month—
    (i) by reference to the balance of that account on the last day of the month; and
    (ii) in the same proportion as that account contributes to the Common Fund as a whole on that day.

9 Payment of distributable income

(1) On 1 April each year, the Māori Trustee must pay into each account in the Common Fund the aggregate of the monthly entitlements calculated under regulation 8 for the preceding 12 months, except to the extent that any part of the entitlement has been paid into an account during that time, as permitted by subclause (3).

(2) Despite subclause (1), on 1 April 2010, the Māori Trustee is required to pay into each account the aggregate monthly entitlements calculated under regulation 8 for the preceding 9 months.

(3) Subclauses (1) and (2) do not prevent the Māori Trustee from making payments of distributable income to particular account

holders at other times that the Māori Trustee considers appropriate in all the circumstances.

Disclosure requirements

10 Māori Trustee must report to account holders

(1) The Māori Trustee must report to the holders of an account in the Common Fund to disclose the following information for the financial year immediately prior to the report:

(a) the amount of the distributable income paid in respect of the holder's account; and

(b) the amount of the management fee charged or retained in relation to that account, as provided for by regulation 7; and

(c) the net amount of the distributable income paid by the Māori Trustee in total to all account holders in the year to which the report relates.

(2) The report must be made not later than 30 June in each year.

(3) The Māori Trustee may provide the report required under subclause (1) by electronic or other standard means that the Māori Trustee considers to be appropriate in the circumstances.

(4) If, after making reasonable inquiry, the Māori Trustee is unable to contact an account holder for the purpose of making the report required by this regulation, the Māori Trustee—

(a) is not obliged to report to that account holder; but

(b) must retain a summary of the information on that holder's account to enable appropriate disclosure to the account holder as soon as contact is able to be made with that account holder.

(5) This regulation does not prevent the Māori Trustee from including the report required by subclause (1) with any other information.

Revocation

11 Regulations revoked

The Maori Trust Office Regulations 1954 (SR 1954/46) are revoked.

Schedule

r 4

Commission that may be charged by Māori Trustee

1 The Māori Trustee may charge commission in relation to the matters listed in the first column of the table, at the rate prescribed in the second column, subject to the provisions of clauses 2 to 6.

Matters on which Māori Trustee may charge commission	Rate of commission
(a) gross capital value of any estate realised by the Māori Trustee:	On the first $10,000: 3.75%: on the remainder: 2.5%.
(b) gross value of real or personal property of an estate transferred, relinquished, or delivered in kind to, or retained by, a person entitled as a beneficiary, principal, or in any other capacity to that property, whether on the termination of a trust or agency or otherwise:	On the first $10,000: 3.75%: on the remainder: 2.5%.
(c) capital sums received under a deed of trust or settlement where the capital is cash that the Māori Trustee—	
(i) must or may invest in the Common Fund:	2%
(ii) must invest other than in the Common Fund:	On the first $10,000: 3.75%: on the remainder: 2.5%.
(d) money transferred from the account kept by the Māori Trustee in respect of any estate to another account kept by the Māori Trustee (whether or not in respect of another estate):	2%
(e) money transferred to an account kept by the Māori Trustee in respect of an estate from any other account kept by the Māori Trustee (whether or not in respect of another estate):	2%
(f) money received as damages by way of compromise or otherwise under the Deaths by Accidents Compensation Act 1952 or for any other cause relating to personal injury—	

Matters on which Māori Trustee may charge commission		Rate of commission
	(i) on as much of the money that is immediately payable to the person entitled to it:	1%
	(ii) on as much of the money that is held and administered under any court order or otherwise:	2.5%
(g)	the gross income of an estate from any source (if not provided for otherwise in this Schedule):	5%
(h)	the gross proceeds of the sale of land or freehold interest in land:	5%
(i)	the gross amount of any compensation received by the Māori Trustee in any capacity:	5%
(j)	the gross rent from any land received by the Māori Trustee in any capacity:	7.5%
(k)	the gross income from any business carried on by the Māori Trustee in relation to any land, or otherwise:	5%
(l)	money arising from any business carried on by the Māori Trustee in relation to land and that is distributed or appropriated for payment to the persons beneficially entitled:	5%
(m)	money (other than money for which commission is prescribed elsewhere in this Schedule) received by the Māori Trustee in any capacity for payment to the persons beneficially entitled:	5%
(n)	money disposed of as unclaimed money by payment to the persons beneficially entitled or otherwise.	10%

2 The value mentioned in paragraphs (a) and (b) of the table in clause 1 is the value determined by the Māori Trustee.

3 Despite paragraph (g) of the table in clause 1, commission must not be charged by the Māori Trustee—

(a) on any part of the gross income of an estate under that paragraph if commission has been charged under paragraph (d) or (e):

(b) on interest earned by an estate from capital belonging to that estate in the Common Fund.

4 Despite paragraph (g) of the table in clause 1 and clause 3, the Māori Trustee may charge commission at the rate of 2% if—
   (a) income has been collected on behalf of the Māori Trustee by a person duly authorised who has charged a commission for doing so; or
   (b) income is derived from an estate not administered by the Māori Trustee and commission has been charged on that income before the income is passed to the Māori Trustee.

5 In relation to the matters provided for in paragraphs (h) and (i) of the table in clause 1, the commission is the same as that prescribed by paragraph (a) of the table in clause 1 if the Māori Trustee acts as—
   (a) an administrator or trustee under Part 10 of the Maori Affairs Act 1953; or
   (b) a manager under the Mental Health Act 1969 (as applied by section 41 of the Protection of Personal and Property Rights Act 1988).

6 The minimum commission that may be charged under paragraph (k) of the table in clause 1 is $300 a year.

7 The commission chargeable under this Schedule is exclusive of any goods and services tax payable on the commission.

Rebecca Kitteridge,
Clerk of the Executive Council.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 18 June 2009.

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Notes

1 General

This is a reprint of the Māori Trustee Regulations 2009. The reprint incorporates all the amendments to the regulations as at 1 July 2013, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, *see* http://www.pco.parliament.govt.nz/reprints/.

2 Status of reprints

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 How reprints are prepared

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked

are omitted. For a detailed list of the editorial conventions, *see* http://www.pco.parliament.govt.nz/editorial-conventions/ or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 Changes made under section 17C of the Acts and Regulations Publication Act 1989

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted.

A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
  - indentation
  - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
  - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
  - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 List of amendments incorporated in this reprint (most recent first)

High Court Fees Regulations 2013 (SR 2013/226): regulation 25

Wellington, New Zealand:
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