

Titi (Muttonbird) Islands Amendment Regulations 2007

Preamble

At Wellington this 3rd day of December 2007

Pursuant to sections 48(1)(d) and 65(6) of the Conservation Act 1987, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, and following the consultation required under section 48(1)(d) of that Act, makes the following regulations.

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1 Title

These regulations are the Titi (Muttonbird) Islands Amendment Regulations 2007.

2 Commencement

These regulations come into force on the 28th day after the date of their notification in the *Gazette*.

3 Principal regulations amended

These regulations amend the Titi (Muttonbird) Islands Regulations 1978.

4 Interpretation

(1) Regulation 2 is amended by revoking the definition of **European**.

(2) Regulation 2 is amended by inserting the following definitions in their appropriate alphabetical order:

“**non-Rakiura Maori** means a person other than a Rakiura Maori

“**permit** means a written permit, issued by the Committee under regulation 3(2A), that allows a person to enter onto—

“(a) the beneficial islands generally; or

“(b) any beneficial island or islands specified in the permit.”

5 Persons who may enter islands and conditions of entry

(1) Regulation 3 is amended by revoking subclause (1) and substituting the following subclauses:

“(1) A non-Rakiura Maori—

“(a) must not enter onto a beneficial island without first obtaining a permit to enter onto that island:

“(b) must not, at any time, search for, pursue, or take muttonbirds or their eggs from that island.

“(1A) However, subclause (1) does not apply to a non-Rakiura Maori who is a family member of a beneficiary if—

“(a) the beneficiary has issued the family member with an authorisation to enter onto a beneficial island; and

“(b) the authorisation has been issued in accordance with the traditional customs and practices associated with the island.”

(2) Regulation 3(2) is amended by—

(a) omitting “Director-General” and substituting “Committee”; and

(b) omitting “on the recommendation of the Committee”.

- (3) Regulation 3 is amended by inserting the following subclause after subclause (2):
- “(2A) The Committee may—
- “(a) issue a permit to any person; and
 - “(b) impose conditions on that permit.”
- (4) Regulation 3(3) is amended by revoking paragraphs (c) and (d).
- (5) Regulation 3(4) is amended by—
- (a) omitting “subclause (3) of” ; and
 - (b) omitting “Director-General” and substituting “Committee”.

6 Buildings on islands

- (1) Regulation 5 is amended by omitting “Director-General” in each place where it appears and substituting in each case “Committee”.
- (2) Regulation 5(3) is amended by omitting “he” and substituting “it”.
- (3) Regulation 5(5)(b) is amended by omitting “, after consultation with the Committee,”.

7 Supervisors

Regulation 6 is amended by omitting “Director-General” in each place where it appears and substituting in each case “Committee”.

8 Meetings

- (1) Regulation 7(1) is amended by omitting “Director-General” and substituting “Committee”.
- (2) Regulation 7(1) is amended by inserting the following paragraph before paragraph (b):
- “
- “(a) the Committee may issue permits under regulation 3(2A):”.
- (3) Regulation 7 is amended by inserting the following subclause after subclause (1):
- “(1A) For the avoidance of doubt, subclause (1)(a) does not limit the Committee’s power to issue permits at other times.”

- (4) Regulation 7(4) is amended by omitting “Director-General” and substituting “Committee”.
- (5) Regulation 7 is amended by adding the following subclause:
- “(5) In this regulation, **spouse** includes any person who—
- “(a) has entered into a civil union with a Rakiura Maori:
 - “(b) is the de facto partner of a Rakiura Maori.”

9 New regulation 9 substituted

Regulation 9 is revoked and the following regulation substituted:

“9 Referral to independent decision maker

- “(1) A beneficiary (an **applicant**) who is dissatisfied with a decision of the Committee may apply, in writing to the Committee, for the matter to be referred to an independent decision maker for resolution.
- “(2) The Committee must,—
- “(a) within 10 working days after receipt of an application under subclause (1), notify any other parties directly affected by the decision to which the application relates (**the other parties**); and
 - “(b) within 15 working days after—
 - “(i) receipt of the application, attempt to reach an agreement under subclause (3)(a)(i)(A) if no other parties are involved; or
 - “(ii) giving notification to the other parties, attempt to facilitate an agreement under subclause (3)(a)(i)(B) if any other parties are involved.
- “(3) The person to be appointed as independent decision maker—
- “(a) must—
 - “(i) be agreed on—
 - “(A) by the Committee and the applicant if no other parties are involved; or
 - “(B) by the applicant and the other parties if any other parties are involved; and
 - “(ii) be appointed by the Committee; but
 - “(b) may be decided on, and appointed, by the President of the Arbitrators’ and Mediators’ Institute of New Zealand Incorporated if—

- “(i) agreement has not been reached under subclause (3)(a); and
 - “(ii) the applicant has, within 15 working days after the expiry of the time specified in subclause (2)(b), made an appropriate written request to the President.
- “(4) The procedures for resolution may—
- “(a) be agreed on by the applicant and the other parties; or
 - “(b) be decided on by the independent decision maker, if agreement has not been reached under paragraph (a).
- “(5) The independent decision maker must attempt to resolve the matter by mediation.
- “(6) However, if the independent decision maker believes that mediation has failed, or will fail, to resolve the matter, he or she may resolve the matter in any way he or she considers appropriate.
- “(7) Nothing in this regulation prevents more than 1 independent decision maker being appointed in relation to a particular matter and, if more than 1 independent decision maker is appointed, this regulation applies with all necessary modifications.”

10 Breach of regulations

- (1) Regulation 11(1) is amended by omitting “appointed by him,” and substituting “appointed by the Director-General in writing, any person authorised by the Committee in writing.”
- (2) Regulation 11(2) is amended by—
 - (a) omitting “appointed by him in writing,” and substituting “appointed by the Director-General in writing, any person authorised by the Committee in writing,”; and
 - (b) omitting “his appointee,” and substituting “the person appointed by the Director-General, the person authorised by the Committee,”.

Martin Bell,
for 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, which come into force on the 28th day after the date of their notification in the *Gazette*, amend the Titi (Muttonbird) Islands Regulations 1978 (the **1978 regulations**) by—

- omitting the definition of European from regulation 2, and inserting definitions of non-Rakiura Maori and permit (*regulation 4*):
- amending regulation 3(1) by substituting *new subclauses (1) and (1A)* and inserting *new subclause (2A)*. *New subclause (1)* prohibits non-Rakiura Maori from entering any beneficial island without a permit. In addition, non-Rakiura Maori are prohibited from searching for, pursuing, or taking muttonbirds or their eggs at any time. However, under *new subclause (1A)*, these prohibitions do not apply to a non-Rakiura Maori who is a family member of a beneficiary if the beneficiary has issued the family member with an authorisation in accordance with the traditional customs and practices associated with the beneficial island. *New subclause (2A)* enables the Rakiura Titi Committee (the **Committee**) to issue permits to allow persons to enter onto a beneficial island. Regulation 3(3)(c) and (d) are revoked (*regulation 5*):
- including a definition of spouse for the purposes of regulation 7 (*regulation 8*):
- substituting *new regulation 9*. *New regulation 9* provides for a disputed decision of the Committee to be referred to an independent decision maker for resolution (*regulation 9*):
- including, in regulation 11, references to a person authorised by the Committee. This amendment empowers a person authorised by the Committee to—
 - lay an information against a person who commits a breach of the 1978 regulations; and
 - enter any part of the islands at any time to ensure that no breaches of the 1978 regulations are being committed (*regulation 10*).

The 1978 regulations are also amended by omitting references to the Director-General and substituting references to the Committee.

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**Titi (Muttonbird) Islands Amendment
Regulations 2007**

These amendments implement a decision to transfer the Director-General's administrative powers under the 1978 regulations to the Committee.

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