



THE COOK ISLANDS LAND OWNERS INCORPORATION
REGULATIONS 1972

GEORGE JAMES BROCKLEHURST, High Commissioner
By the
Chief Judge of the High Court, JAMES ALISTER FRASER

ORDER IN EXECUTIVE COUNCIL

At Avarua, Rarotonga this 25th day of October, 1972

Present:

HIS EXCELLENCY THE HIGH COMMISSIONER
BY THE
CHIEF JUDGE OF THE HIGH COURT IN
EXECUTIVE COUNCIL

PURSUANT to the Land (Facilitation of Dealings) Act 1970,
His Excellency the High Commissioner, acting by and with the
advice and consent of the Executive Council, hereby makes
the following regulations.

ANALYSIS

- | | |
|-----------------------------------|-------------------------------------|
| 1. <u>Preliminary</u> | 8. Acting Chairman |
| 2. Title and commencement | 9. Voting |
| 3. Interpretation | 10. Recording of Minutes |
| 4. <u>Committee of Management</u> | 11. Secretary |
| 5. Election of Members to | 12. Office |
| 6. Committee of Management | 13. Records |
| 7. Membership of Committee | 14. <u>Register of Incorporated</u> |
| 8. may be increased | 15. <u>Owners</u> |
| 9. Meeting | 16. Register to show certain |
| 10. Election of a Chairman | 17. particulars |
| 11. Mode of calling a | 18. Further particulars |
| 12. Meeting | 19. required |

Price 50c

- | | |
|---|---|
| 16. Register to be correct at all times | 25. Chairman may adjourn meeting |
| 17. Auditor to audit accounts and check Register | 26. Persons entitled to attend or vote |
| 18. Register to be open to inspection | 27. Declaration of a Resolution |
| <u>General Meetings of Incorporated Owners</u> | 28. Voting by poll |
| 19. Annual General Meeting | 29. Record of Minutes |
| 20. Special | <u>Proxies</u> |
| 21. Notice of Meeting | 30. Representation by a proxy or trustee |
| 22. Chairman | 31. Who may act as proxy holder |
| 23. Postponement of Meeting | <u>Miscellaneous</u> |
| 24. Adjournment of the meeting for absence of quorum or for any other reasons, etc. | 32. Seal of the Body Corporate |
| | 33. Irregularity of procedures at any Meeting |

REGULATIONS

Preliminary

1. Title and commencement - (1) These regulations may be cited as the Cook Islands Land Owners Incorporation Regulations 1972.

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

2. Interpretation - In these regulations, unless the context otherwise requires -

"The Act" means the Land (Facilitation of Dealings) Act 1970;

"Court" means the Land Court;

"Committee" means a Committee of management duly appointed for a body corporate under Part I of the Act.

Committee of Management

3. Election of members to committee of management - (1) The election of persons to fill vacancies in the committee shall be conducted at the annual general meeting unless the Court in any particular case orders the holding of a special general meeting for this purpose, or unless the committee decides to submit the filling of a vacancy to a special general meeting convened for that or any other purpose.

(2) Nominations for any such election shall be made in writing signed by the person making the nomination and accepted by the person nominated and shall be lodged at the registered office of the incorporation.

(3) No nominations shall be received later than 3 clear days before the time fixed for the meeting.

(4) If the number of eligible persons so nominated does not exceed the number of members to be elected, the chairman of the meeting shall declare the persons nominated to be elected.

(5) If the number of eligible persons so nominated exceeds the number required to be elected, the chairman shall call upon the meeting to elect from the persons nominated the

number required, and the secretary with or without some person or persons appointed by the chairman and approved by the meeting shall count the votes cast for each person nominated and report the results to the chairman.

(6) Unless a poll is demanded under subsection(6) of section 35 of the Act, each person present in person or by proxy and entitled to vote shall be entitled to one ballot paper only.

(7) Each voter shall record his votes in writing.

(8) The chairman shall declare those persons (being not more than the number of persons required to be elected) who have received the highest number of votes to be elected.

(9) If the number of eligible persons so nominated is less than the number required to be elected, the chairman shall declare the persons nominated to be elected and shall invite nominations from the meeting to fill the remaining vacancies. If the number of eligible persons nominated from the meeting does not exceed the number of remaining vacancies the chairman shall declare the persons so nominated to be elected, and if the number so nominated exceeds the number of remaining vacancies an election shall be conducted in accordance with the foregoing provisions of this regulation. No person nominated from the meeting shall be eligible for election unless he accepts the nomination.

(10) A list of the persons elected shall forthwith be prepared by the chairman and signed by him. After having the list countersigned by some person present at the meeting the chairman shall then cause it to be forwarded to the Registrar, and, where necessary, shall cause an application to be made to the Court in the name of the incorporation for the appointment of the persons so elected.

4. Membership of committee may be increased - A general meeting of incorporated owners may at any time resolve that application be made to the Court to determine pursuant to subsection (2) of section 28 of the Act that the membership of the committee be increased to a number of members (not more than eleven) specified in the resolution.

5. Meeting - Subject to the provisions of the Act and of these regulations and subject to any conditions imposed by resolution of a general meeting of incorporated owners, the members of a committee of management may meet together for the despatch of business, adjourn, and otherwise regulate their meetings as they think fit. A quorum shall be deemed to exist if a majority of the members for the time being in office are present:

Provided that in no circumstances shall a quorum be less than three members.

6. Election of a Chairman - At the first meeting after their appointment the members of the committee shall elect one of their number to be chairman, and shall determine the period for which he is to hold office.

7. Mode of calling a meeting - All meetings of the committee shall be called by the chairman, but any two members may at any time require the chairman to summon a meeting. Not less than three days' notice of any meeting shall be given to every member of the committee.

8. Acting Chairman - If at any meeting the chairman is not present at the time appointed for holding the same,

the members present shall choose one of their number to be chairman, and the person so chosen shall have and may exercise at the meeting all the powers of the chairman.

9. Voting - Questions arising at any meeting shall be decided by a majority of the members present, but three members at least shall concur in every act of the committee. In the case of an equality of votes, the chairman shall, in addition to his deliberative vote, have a casting vote.

10. Recording of minutes - Minutes of the proceedings of the committee shall be recorded in a minute book, and the minutes of any meeting shall be read and confirmed at the next succeeding meeting.

11. Secretary - The committee may appoint a secretary, who shall be paid such remuneration as the committee thinks fit. The chairman or any member of the committee shall be eligible for appointment as secretary.

12. Office - The committee shall appoint any place it thinks fit as the office of the body corporate, and may from time to time remove that office to some other place. The committee shall notify the Registrar of the Court of the address of the office and of any change in the address thereof.

13. Records - The books and records of the body corporate and of the committee shall be kept in the custody of the chairman or such other person as the committee may appoint, and shall be open to inspection by the owners at the office of the body corporate at all reasonable times. The Court or a Judge thereof may direct that an owner or someone on his behalf shall be permitted to take copies of any account or accounts of the committee.

Register of Incorporated Owners

14. Register to show certain particulars - The committee shall keep or cause to be kept a register showing in respect of each block of land subject to the order of incorporation -

- (a) The names and sexes of the equitable owners;
- (b) If any owner is under disability, the nature of the disability and the name of any trustee appointed in respect of his interest;
- (c) The relative interests of the equitable owners in that land;
- (d) The place of residence of the equitable owners so far as the addresses are known to the committee.

15. Further particulars required - (1) Where two or more areas of land held under separate titles are subject to the order of incorporation, the register shall further disclose -

- (a) The aggregate voting powers exercisable at a general meeting of the incorporated owners by the equitable owners under any one title; and
- (b) The voting power exercisable at a general meeting of the incorporated owners by each individual incorporated owner.

(2) The particulars required to be disclosed by this regulation shall be determined pursuant to the provisions of section 35 of the Act.

16. Register to be correct at all times - The Committee shall ensure that the information contained in the register is at all times correct, and for this purpose the Registrar of the Court, on application, shall forward to the secretary or to the office of the body corporate, a copy of any order of the Court affecting the equitable title to any land subject to the order of incorporation.

17. Auditor to audit accounts and check Register - The auditor duly appointed to audit the accounts of the body corporate shall, as a part of his audit, check and examine the register and the particulars entered therein in accordance with regulations 24 and 25 hereof, and shall, if he deems it necessary, append to his report on the annual accounts any comments on the form and contents of the register and on the system of keeping the register.

18. Register to be open to inspection - The register shall, without charge, be open to inspection by an incorporated owner at the office of the body corporate at all reasonable times.

General Meetings of Incorporated Owners

19. Annual General Meeting - An annual general meeting of the incorporated owners shall be held within six months after the termination of the financial year of the body corporate at a time and place to be fixed by the committee, having regard to the convenience of the majority of the owners. To each such annual general meeting the audited statement of accounts for the last preceding financial year shall be submitted by the committee and the statement shall be considered by the meeting in addition to any other business that may properly be brought forward.

20. Special - (1) A special general meeting of the incorporated owners may be convened at any time by the committee and shall be so convened -

- (a) Upon a direction by the Court; or
- (b) Upon a requisition in writing signed by not less than three of the incorporated owners.

(2) Any requisition for the calling of a special general meeting shall state the purpose for which the meeting is required and shall be served on the chairman or the secretary of the committee, who shall lay the same before the committee.

(3) On receipt of any requisition or direction by the Court for the calling of a special general meeting, the committee shall fix a time and place therefor and convene a general meeting accordingly.

21. Notice of Meeting - Notice of the time and place at which any general meeting of the incorporated owners is to be held shall be given in such manner and such period before the date of the meeting as shall be directed by the Registrar of the Court as most practical and convenient in the circumstances

but it shall not be necessary for the committee to send written notice to incorporated owners.

22. Chairman - At every meeting of the incorporated owners the chairman of the committee, if present, shall preside, or, in his absence, the meeting shall appoint one of the incorporated owners present to be chairman of the meeting.

23. Postponement of meeting - At any time before the time fixed for the holding of any such meeting the chairman of the committee may postpone the meeting to some other time, or may appoint some other place of meeting, as he may deem expedient, and notice of any such altered time or place shall be duly given.

24. Adjournment of the meeting for absence of quorum or for any other reason, etc. - (1) If at the time and place appointed for such meeting or within one hour thereafter, there is not a quorum present, or if for any other reason the meeting cannot be held, it shall stand adjourned from day to day at the same time and place for not longer than fourteen days till a quorum is present. If on the expiration of fourteen days there has not been a quorum present the meeting shall lapse.

(2) Where any annual general meeting lapses as aforesaid the certified balance sheet and statement hereinbefore referred to shall forthwith be transmitted by the chairman to the Registrar.

25. Chairman may adjourn meeting - The chairman may, with the consent of the meeting, adjourn any meeting from time to time and from place to place.

26. Persons entitled to attend or vote - No person claiming to be entitled to any share of the interest of a deceased incorporated owner in the assets of the body corporate shall be entitled to attend or vote at any meeting until and unless a succession order in respect of his interest has been made by the Court in his favour.

27. Declaration of a resolution - Unless a poll is demanded by not less than two incorporated owners, a declaration by the chairman that a resolution has been carried, and an entry to that effect in the minute book of the body corporate, shall be sufficient evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against the resolution.

28. Voting by poll - In the event of a poll being demanded by two or more persons, the chairman shall require each person present and entitled to vote to declare that his vote is cast for or against the resolution before the meeting, and the secretary or some person appointed by the chairman and approved by the meeting shall record the voting accordingly and shall compute, by reference to the register, the aggregate value of votes cast for and against the resolution and report the result to the chairman. The chairman shall declare the resolution to be carried or to be lost accordingly.

29. Record of minutes - The proceedings of every meeting of incorporated owners shall be recorded in a minute book, which shall be kept in the custody of the chairman or secretary of the committee. The minutes of every meeting shall be read and confirmed at the next succeeding meeting.

Proxies

30. Representation by a proxy or trustee - Any incorporated owner who is a person under disability within the meaning of Section 493 of the Cook Islands Act 1915 and for whom a trustee is in office under Part XVII of that Act may be represented at any meeting by a trustee who may attend, vote, and act at any meeting, either personally or by proxy, in the same manner and on the same conditions as if he were an incorporated owner.

31. Who may act as proxy holder - (1) Subject to the provisions of section 35 of the Act and to the provisions of this regulation, any incorporated owner may attend, vote, and act at any meeting by proxy.

(2) No person other than an incorporated owner or the wife or husband or sister or brother of an incorporated owner shall be qualified to act as a proxy at any meeting, otherwise than as proxy of the trustee of a person under disability within the meaning of Section 493 of the Cook Islands Act 1915.

(3) No person shall act as a proxy at any meeting after the death of the person who has given the proxy.

(4) An instrument appointing a proxy shall be in the form in the Schedule hereto and shall be signed by the person making the appointment whose signature shall be witnessed by one of the persons set out in that form.

(5) Every such instrument shall be lodged with the chairman of the meeting at any time before a vote is given under it.

Miscellaneous

32. Seal of the body corporate - (1) The name of the body corporate, either in English or Maori, shall be engraved or impressed in legible characters on the seal of the body corporate.

(2) The seal shall be kept in the custody of the secretary of the committee, or of the chairman if no secretary has been appointed.

33. Irregularity of procedures at any meeting - No meeting of incorporated owners and no proceedings or election at any such meeting shall be invalid by reason of any irregularity in the summoning or the conduct of the meeting or in the proceedings at the meeting or by reason of any failure to comply with the directions contained in the Act or in these regulations, if it appears that the meeting was summoned and the proceedings or election conducted in accordance with the principles laid down in the Act and in these regulations and that the irregularity or failure did not affect the result of the proceedings or election.

SCHEDULE

MEETING OF INCORPORATED OWNERS

APPOINTMENT OF PROXY

Land (Facilitation of Dealings)
Act 1970

Reg. 41

I,, Being an owner, or trustee for
....., an owner of the land called.....
....., do hereby appoint,
of....., my proxy to attend and vote on
my behalf at the meeting of the incorporated owners of the
said land, to be held at, on the
day of next, and at any adjournment
thereof.

As witness my hand, this day of19..

Witness to the signature of the said

-
- Witness
- Solicitor of the Supreme Court,
- Justice of the Peace,
- Postmaster,
- Medical Officer
- Officiating Clergyman
- School Teacher,
- Officer of the Department of Justice
or Department of Survey,
- Resident Agent,
- Clerk-in-Charge.
- Registered Nurse

.....
Signature of Owner

G.H. Sawtell
Acting Clerk of the Executive Council

These regulations are administered in the Justice Department.

BY AUTHORITY: T. KAPI, Government Printer, Rarotonga,
Cook Islands - 1972