

COVID-19 Response Act: guide for assembled owners

The *COVID-19 Response (Requirements for Entities – Modifications and Exemptions) Act 2020* provides temporary relief for governance entities who are unable to meet their statutory obligations or the obligations in their constitution or rules because of the COVID-19 outbreak.

This guide provides information on the Act for ‘assembled owners’ under Part 9 of Te Ture Whenua Māori Act 1993. That is, groups of assembled owners of Māori freehold land or General land owned by Māori, where there is no structure such as a trust or incorporation.

A separate guide covers Māori land trusts, Māori incorporations, and body corporates or trustees appointed to administer a Māori reservation.

The Act helps groups of assembled owners affected by the COVID-19 restrictions to operate more effectively. It initially covered the period 21 March to 30 November 2020. This initial period was extended by Order in Council until 31 March 2021.

Sections in the Act that provide temporary relief for assembled owners now cover the period from 3 November 2021 until 30 April 2022. The operational period for these sections may be extended by Order in Council up until 30 October 2022.

The Act allows the Minister for Māori Development to grant exemptions from certain statutory obligations under Te Ture Whenua Māori Act.

Further guidance on this is provided below.

This guide is a summary only. If you are unsure about anything, please refer to the Act and, if necessary, seek legal advice. You can read the Act itself here:

<http://legislation.govt.nz/act/public/2020/0014/latest/LMS344932.html>

Exemption from certain statutory obligations

If your group of assembled owners is having trouble or difficulty in meeting your statutory obligations under Te Ture Whenua Māori Act 1993, you can apply for an exemption from those obligations.

The Minister for Māori Development has the power to grant these exemptions.

What kinds of statutory obligations are covered?

The Minister for Māori Development may grant an exemption to a requirement in Te Ture Whenua Māori Act relating to:

- calling or holding meetings
- a method or form of voting
- giving or receiving information
- making or keeping new records
- rights to inspect or access information or records
- a method or form of dispute resolution
- a method or form of disciplinary procedures
- auditing, assurance, or financial reporting or review requirements.

The Minister cannot grant an exemption that would dilute voting rights, or the number or need for a quorum, and any exemption relating to dispute resolution or disciplinary proceedings must comply with the principles of natural justice.

These exemptions can only cover the periods 21 March to 31 March 2021 or 3 November 2021 to 30 April 2022.

In most cases, the exemption will apply to a specific group of assembled owners. The Minister may decide to exempt other groups of assembled owners who are facing difficulties from the same statutory obligation.

How do we request an exemption?

If your group of assembled owners is having difficulty with your obligations under Te Ture Whenua Māori Act 1993, you should write to Te Puni Kōkiri to request an exemption. Te Puni Kōkiri will then work with you to determine whether an exemption is possible.

Email your request to notices@tpk.govt.nz

When may the Minister grant an exemption?

The Minister must be satisfied the exemption is necessary or desirable and the most appropriate way to deal with difficulties resulting from the COVID-19 outbreak, and that the exemption is not broader than necessary.

The Minister may also consult with relevant persons about on the exemption and invite interested people to make written comments about the exemption within three working days (or any longer time) that would be taken into account when considering whether the exemption should be made.

The Minister may decide to not consult publicly if a situation is urgent, the exemption will not be detrimental to any person, or consultation is disproportionate to the nature, size, significance and effect of the exemption.

How will we know if an exemption has been granted?

Te Puni Kōkiri will contact the entity and persons affected by the exemption known to Te Puni Kōkiri.

The exemption will also be published on the Te Puni Kōkiri website, along with the reasons for bypassing the engagement process, if appropriate, and documents setting out the details of the proposed exemption.

Further Information

You may wish to seek independent legal or professional advice about whether your group of assembled owners is able to meet its statutory obligations because of the COVID-19 outbreak.

If you have any general questions about the legislation, contact Te Puni Kōkiri at notices@tpk.govt.nz