

JOINT FAMILY HOMES AMENDMENT BILL

EXPLANATORY NOTE

This Bill provides for amendments to the Joint Family Homes Act 1950.

Under that Act one of the conditions governing the settlement of a dwellinghouse and land as a joint family home is that the capital value of the property must not exceed £5,000. Attempts have been made to evade this limit by applying for registration while the dwellinghouse was in course of being erected. *Clause 2* of the Bill therefore provides that a dwellinghouse is not to be settled as a joint family home if, at the date of the application to register it as such, it is being erected or repaired. In these cases the application will have to be delayed until the work is completed so that its value can be taken into account for the purpose of determining whether the property may be settled.

Clause 3 provides that, where a settlement is being made by only one of the spouses who will benefit, and the land is a leasehold interest or is held under agreement for sale or licence to occupy under *Part II of the Finance Act 1950* (which relates to the sale of State houses), the settlement cannot be completed without the consent of the other spouse. The clause provides that the consent will cause the spouse who gives it to become jointly and severally liable with the settlor for the liabilities of the settlor under the lease, agreement, or licence. Section 8 of the Joint Family Homes Amendment Act 1951 makes similar provision in respect of mortgaged land. The object in each case is to simplify conveyancing practice by making it unnecessary to include provisions in mortgages and leases requiring deeds of covenant in the event of land being settled as a joint family home.

Section 16 of the principal Act provides that, where a joint tenant of a joint family home dies during the lifetime of the other joint tenant, no estate or succession duty is to be payable on the interest which the survivor takes as successor to the joint family home except to the extent that the value of that interest exceeds £2,000. As the provision stands the value of the home, so far as it is attracted into the dutiable estate of the deceased joint tenant, must be brought into account for the purpose of fixing the rate of estate duty on the other assets of his or her estate, and of determining the other exemptions from estate duty under the general Death Duties legislation. *Clause 4* provides for that value (to the extent of £2,000) to be excluded from the dutiable estate of the deceased joint tenant for all purposes.

Hon. Mr. Webb

JOINT FAMILY HOMES AMENDMENT

ANALYSIS

Title.	2. Conditions in respect of settlement of land as a joint family home.
1. Short Title.	3. Settlements of leasehold interests, &c.
	4. Exemptions from death duty.

A BILL INTITULED

AN ACT to amend the Joint Family Homes Act 1950. **Title.**

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority

5 of the same, as follows:—

1. This Act may be cited as the Joint Family Homes Amendment Act 1952, and shall be read together with and deemed part of the Joint Family Homes Act 1950 (hereinafter referred to as the principal Act). **Short Title.**
1950, No. 43

10 2. Section three of the principal Act is hereby amended by inserting in paragraph (a) of subsection one, after the word "land", the words "which dwelling-house is not being erected or repaired at the date of the application to register the land as a joint family home". **Conditions in respect of settlement of land as a joint family home.**

15 3. (1) Subsection one of section four of the principal Act is hereby amended by inserting in the proviso added by subsection one of section eight of the Joint Family Homes Amendment Act 1951, after the word "land", the words "being settled is a leasehold interest, or is held under agreement for sale or licence to occupy under *Part II of the Finance Act 1950, or*". **Settlements of leasehold interests, &c.**
1951, No. 28
1950, No. 93

(2) Paragraph (c) of subsection one of section seven of the principal Act (as added by subsection two of section eight of the Joint Family Homes Amendment Act 1951) is hereby amended—

(a) By omitting the words “ principal, interest, and other moneys ”, and substituting the words “ rent, principal, interest, and other moneys payable in respect of or ”: 5

(b) By inserting, after the words “ contained or implied in the ”, the words “ lease, agreement for sale, licence to occupy ”. 10

Exemptions
from death
duty.

4. The principal Act is hereby amended by repealing section sixteen and substituting the following section:—

“ 16. Where any joint tenant of any joint family home dies during the lifetime of the other joint tenant and, except for this section, the value of the joint family home or of any interest therein would form part of the dutiable estate of the deceased joint tenant for the purposes of the Death Duties Act 1921, that value shall be deemed not to form part of that dutiable estate unless it exceeds two thousand pounds in which case it shall be deemed not to form part of that dutiable estate to the extent of two thousand pounds.” 15 20