

JOINT FAMILY HOMES AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Joint Family Homes Act 1964.

Clause 1 relates to the Short Title.

Clause 2: When the Joint Family Homes legislation was consolidated last year its provisions were extended so as to enable the settlement under the legislation of flats where they were held under the company system or where a separate title could be given for the flat and the land appurtenant thereto. The system is now growing up in connection with flats of granting long term leases to the tenants (usually not more than six), and vesting the fee simple in the tenants in undivided shares. The existing legislation enables the tenant to settle his leasehold interest in the flat in such a case. This clause enables such a tenant to settle also his undivided share in the fee simple.

Clause 3 amends section 4 of the principal Act so as to provide, in the circumstances contemplated in *clause 2*, that the undivided share in the fee simple may be added to the settlement where the land settled comprises or includes a leasehold interest in a flat.

Clause 4 amends section 7 of the principal Act so as to provide for the automatic inclusion in the settlement of any new, substituted, or different estate or interest acquired by the husband and wife or the survivor of them in land that is settled as a joint family home. Cf. section 6 (3) of the Joint Family Homes Act 1950.

Hon. Mr Hanan

JOINT FAMILY HOMES AMENDMENT

ANALYSIS

Title	3. Settlement of additional interest in land
1. Short Title	4. Registration in respect of new interest in settled land
2. Provision for joint family homes	

A BILL INTITULED

An Act to amend the Joint Family Homes Act 1964

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same,
5 as follows:

1. Short Title—This Act may be cited as the Joint Family Homes Amendment Act 1965, and shall be read together with and deemed part of the Joint Family Homes Act 1964* (hereinafter referred to as the principal Act).

10 **2. Provision for joint family homes**—Section 3 of the principal Act is hereby amended by inserting, after subsection (2), the following subsection:

15 “(2A) For the purposes of paragraph (b) of subsection (2) of this section, in the case of an application to settle any land comprising or including a leasehold interest in a flat, if the applicant is also the registered proprietor of an undivided share in the land which is the site of or appurtenant to the

*1964, No. 45

flat, and if neither the applicant nor the husband or wife of the applicant is deriving any pecuniary gain from or in respect of that undivided share in the land, then that undivided share in the land shall be deemed to be used principally in connection with the use of the flat as a home.” 5

3. Settlement of additional interest in land—Section 4 of the principal Act is hereby amended by adding the following subsection:

“(3) In any case where the land settled as a joint family home comprises or includes a leasehold interest in a flat, if the settlor of the joint family home is the registered proprietor, or the settlors of the joint family home are the registered proprietors, of an undivided share in the land which is the site of or appurtenant to the flat but is not included in the settlement, and if on the cancellation of the settlement the settlor or settlors could have resettled under this Act the land originally settled together with the said undivided share in the land, that share shall, for the purposes of subsections (1) and (2) of this section, be deemed to be additional land contiguous to the joint family home.” 10 15 20

4. Registration in respect of new interest in settled land—Section 7 of the principal Act is hereby amended, as from the commencement of that Act, by adding as subsections (2) and (3) the following subsections:

“(2) Where any new, substituted, or different estate or interest in any land for the time being settled as a joint family home on a husband and wife or the survivor of them is acquired by the husband and wife as joint tenants or by the survivor of them and they become the registered proprietors, or the survivor of them becomes the registered proprietor, of that estate or interest, the Registrar shall forthwith thereafter, without payment of any further fee, cause a memorandum to be entered on the respective instruments of title in respect of that estate or interest in the manner prescribed in subsection (1) of this section, except that the memorandum shall specify: 25 30 35

(a) The husband and wife, or the survivor of them, as the case may be, on whom the estate or interest is settled; and

(b) The date on which the settlement takes effect in respect of the estate or interest, being the date on which the Registrar enters the memorandum in respect thereof. 40

(3) All the provisions of this Act shall apply to any memorandum entered by the Registrar pursuant to subsection (2) of this section as if it were entered by him pursuant to subsection (1) of this section, except that, where the estate
5 or interest to which the memorandum relates is settled on the survivor of the husband and wife on whom the land was originally settled, the provisions of this Act shall where necessary be modified accordingly.