

1965/65



THE JOINT FAMILY HOMES REGULATIONS 1965

BERNARD FERGUSSON, Governor-General

ORDER IN COUNCIL

At the Government Buildings at Wellington this 3rd day of May 1965

Present:

THE HON. J. R. MARSHALL PRESIDING IN COUNCIL

PURSUANT to the Joint Family Homes Act 1964, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

REGULATIONS

1. (1) These regulations may be cited as the Joint Family Homes Regulations 1965.

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

2. In these regulations, unless the context otherwise requires,—

(a) “The Act” means the Joint Family Homes Act 1964:

(b) Every reference to a numbered form shall be construed as a reference to the form so numbered in the First Schedule to these regulations.

3. Every application to the Registrar under section 5 of the Act to register any land as a joint family home shall be embodied in a statutory declaration in the form numbered 1.

4. (1) Every Registrar shall keep a register of all applications under section 5 of the Act relating to land within his district, and of all proceedings thereon.

(2) All such applications to each Registrar shall be numbered consecutively in the order of their reception by the Registrar, and each application shall be referred to by its number in all subsequent proceedings relating thereto.

(3) The land referred to in each application shall be described and identified to the satisfaction of the Registrar.

(4) Where an application relates to part only of the land in a certificate of title, the Registrar, before registering the settlement in respect of the land, shall require the registered proprietor to apply for a new certificate of title for that part, and the provisions of section 167 of the Land Transfer Act 1952 shall apply to the application for that certificate.

5. As soon as practicable after the receipt of an application under section 5 of the Act, if the applicant or applicants so request in writing and pay the prescribed advertising fee, the Registrar shall give notice thereof in such newspaper or newspapers as he thinks desirable for the purpose of bringing the application to the notice of all persons likely to be creditors of any applicant. Every such notice shall be in the form numbered 2, and shall appear in each such newspaper at least twice on dates specified or approved by the Registrar.

6. Every caveat under section 6 of the Act in respect of any application to register any land as a joint family home shall be in the form numbered 3; and upon receipt of any caveat the Registrar shall enter particulars thereof in the register of applications.

7. Every notice of entry of caveat shall be in the form numbered 4.

8. Every notice of withdrawal of caveat shall be in the form numbered 5.

9. Every notice of withdrawal of application under subsection (4) of section 6 of the Act shall be in the form numbered 6.

10. The Registrar shall not be required to register any settlement under the Act until all fees and costs payable by the applicant under these regulations have been paid.

11. (1) Where the conditions specified in paragraphs (d) and (e) of subsection (1) of section 3 of the Act as to residence in the dwelling-house or flat that is being settled, and as to the use of that dwelling-house or flat and any appurtenant land, are not being satisfied at the date of the application but will be satisfied within six months thereafter, the Registrar shall, forthwith after he accepts the application, serve a notice in form numbered 7 on the applicant or applicants.

(2) Any such notice may be served on any person by delivering it to him personally or by sending it to him by registered letter addressed to him at the address for service given in the application, and in the last-mentioned case the production of a receipt given to an officer of the Post Office, and purporting to be signed by the person to whom it is addressed, shall be sufficient proof of the service.

(3) Nothing in subclause (1) of this regulation shall apply in connection with any application that is lodged with the Registrar more than six months after the date thereof if evidence of the required residence and use are furnished to the Registrar when the application is lodged.

12. Every application to the Registrar under paragraph (a) of subsection (1) of section 10 of the Act for cancellation of the registration of any settlement shall be in the form numbered 8.

13. Upon the cancellation of the registration of any settlement either as to the whole or any part of the settled property, the Registrar shall notify the Assistant Commissioner of Stamp Duties nearest to the Registrar of the cancellation, and of the particular statutory provision under which the cancellation has been made.

14. Where any person applies to the Registrar to cancel the registration of any settlement as to part of the settled property, or lodges with the Registrar a Court order requiring him to cancel the settlement as to

part of the settled property, the Registrar, before cancelling the settlement in respect of that part, may require the person who makes the application or lodges the order to apply for a new certificate of title for that part, and the provisions of section 167 of the Land Transfer Act 1952 shall apply to the application for that certificate.

15. Where any form in the First Schedule hereto is prescribed or authorised to be used, such variations may be made therein as the circumstances of any particular case may require.

16. The register of applications under the Act shall be open to inspection by any person during office hours.

17. Fees shall be payable to the Registrar in respect of the matters specified in the Second Schedule hereto at the rates specified in that Schedule, and shall be collected in like manner as other fees are now collected.

18. Subject to the express provision of any Act, rule, or regulation, service of any notice or document required by the Act to be served or given may be effected—

- (a) Where the person to be served is acting by a solicitor or by a licensed land broker, by being delivered to or left for the solicitor or licensed land broker at his address for service (if any) or by sending the notice or document by registered post addressed to the solicitor or licensed land broker at his address for service (if any) or at his place of business:
- (b) Where the person to be served is not acting by a solicitor or licensed land broker, by being delivered to him personally or left for him at his address for service (if any) or by sending the notice or document by registered post addressed to him at his address for service (if any) or at his last known or usual place of abode or business in New Zealand or, if he is absent from New Zealand, the notice may be delivered as aforesaid to his agent in New Zealand:
- (c) Where the person to be served is dead, by being delivered to his personal representative personally or left for the personal representative at his address for service (if any) or at his last known or usual place of abode or business in New Zealand:
- (d) In any case in such other manner as the Supreme Court or a Judge thereof may direct.

19. The applicant or any other person may from time to time, by notice to the Registrar, substitute any other address for service for that originally specified:

Provided that every original address for service and every substituted address for service shall be within the land registration district in which the land is situate.

20. There shall be payable in respect of all proceedings taken in the Supreme Court or in a Magistrate's Court pursuant to the provisions of the Act like fees to those fixed by the Code of Civil Procedure or the Magistrates' Courts Rules 1948 (as the case may be) in respect of similar proceedings.

21. The following regulations are hereby revoked:

- (a) The Joint Family Homes Regulations 1951:
- (b) The Joint Family Homes Regulations 1951, Amendment No. 1:
- (c) The Joint Family Homes Regulations 1951, Amendment No. 2.

SCHEDULES

FIRST SCHEDULE

FORMS

Form 1

Reg. 3

APPLICATION TO REGISTER LAND AS A JOINT FAMILY HOME

I (or We), of [Address and occupation], solemnly and sincerely declare:

1. That I am (or we are) the registered proprietor(s) of [Full official description of land, including the area and title or index book reference; also the street or general locality in which the land is situated] (and of the following relative shares, namely, Specify particulars).

2. That the full name, address, and occupation of my wife (or husband) is [To be completed if the title is in the name of one person only].

3. That my wife (or husband) and I (or we) at present (or will within six months of the date hereof) reside and have our home in a dwelling-house (or flat) erected on the said land.

4. That the said dwellinghouse (or flat) and land are (or will within six months of the date hereof be) used exclusively as a home for my wife (or husband) and me (or for us) and the following members of our household, namely [State names and relationship], except to this extent, namely: [If the dwellinghouse and land are used exclusively for the above purposes, delete the words "except to this extent, namely"; if they are not used exclusively for the above purposes but, if it is submitted that they are used principally for these purposes, add, after the words "except to this extent, namely", the other uses to which they are being put].

5. That I am (or we are) able at the date hereof to pay all my (or our) debts other than debts charged on the property that is being settled without the aid of that property.

6. That I am not, and my wife (or husband) is not, (or neither of us is) the owner, or a joint owner, of any other joint family home registered as such under the provisions of the Joint Family Homes Act 1964.

7. That the place (or several places) where I (or we) have during the 12 months preceding the date hereof resided, or carried on business, are as follows [Specify place or places and period].

8. That I (or we) have no creditors who reside in any other place.

Clauses 7 and 8 may be omitted in cases where advertising is not required and the prescribed advertising fee is not being paid.)

9. That my (or our) address for service is

And I (or we) hereby apply to register the said land as a joint family home under the provisions of the Joint Family Homes Act 1964.

And I (or we) make this solemn declaration conscientiously believing the same to be true under and by virtue of the Oaths and Declarations Act 1957.

Declared at this day of 19....., before me

Justice of the Peace; or Solicitor.

Signature(s) :

FIRST SCHEDULE—continued

Form 2

Reg. 5

NOTICE UNDER THE JOINT FAMILY HOMES ACT 1964

NOTICE is hereby given that [Full name(s), address(es), and occupation(s)] has (or have), by application number, applied under the Joint Family Homes Act 1964 to register as a joint family home the land situated at [Specify street and general locality] and described as [Full official description, including area and title or index book reference]; and that the land will be registered accordingly unless a caveat forbidding the granting of the application is lodged with me under that Act at the District Land Registry Office at before [Specify date] by some person claiming either to be a creditor of the applicant(s) or to have some estate or interest in the said land.

Dated this day of 19.....

....., District Land Registrar; or Registrar of Deeds.

..... District.

Form 3

Reg. 6

CAVEAT UNDER THE JOINT FAMILY HOMES ACT 1964

In the matter of Application Number Land Registration District, made by under the Joint Family Homes Act 1964.

TAKE notice that I, of [Address and occupation], claiming to be a creditor of the above-named applicant(s) (or claiming the following estate or interest in the property referred to in the said application, that is to say [Specify estate or interest claimed]), hereby forbid the granting of the said application.

My address for service is:

Dated this day of 19.....

....., Caveator.

Witness to the signature of Caveator—

..... Justice of the Peace, Solicitor, Postmaster, Clergyman, or other person who may witness Land Transfer documents.

To the District Land Registrar; or the Registrar of Deeds,

..... District.

FIRST SCHEDULE—continued

Form 4

Reg. 7

NOTICE OF ENTRY OF CAVEAT

In the matter of Application Number
..... Land Registration District, made
by under the Joint Family Homes
Act 1964.

TAKE notice that, of [Address and occupation], claiming to be
a creditor of (or claiming the following estate or interest in
the property referred to in the said application, that is to say [Specify
estate or interest claimed]) has lodged with me a caveat forbidding the
granting of the above application.

Dated this day of 19....

....., District Land Registrar; or
Registrar of Deeds.

..... District.

To the applicant(s).



Form 5

Reg. 8

NOTICE OF WITHDRAWAL OF CAVEAT

In the matter of Application Number
..... Land Registration District, made
by under the Joint Family Homes
Act 1964.

TAKE notice that I, of [Address and occupation], hereby with-
draw the caveat lodged by me forbidding the granting of the above
application.

Dated this day of 19....

....., Caveator.

Witness to the signature of Caveator—

Justice of the Peace, Solicitor, Postmaster,
Clergyman, or other person who may witness
Land Transfer documents.

To the District Land Registrar; or
the Registrar of Deeds,

.....
District.

FIRST SCHEDULE—continued

Form 6

Reg. 9

WITHDRAWAL OF APPLICATION

In the matter of Application Number Land Registration District, made by under the Joint Family Homes Act 1964.

TAKE notice that I (or we), of [Address and occupation], being the applicant(s) referred to in the said application, hereby withdraw the said application.

Dated this day of 19.....

....., Applicant(s).

Witness to signature(s) of applicant(s)—

Justice of the Peace, Solicitor, Postmaster, Clergyman, or other person who may witness Land Transfer documents.

To the District Land Registrar; or the Registrar of Deeds,

..... District.

Form 7

Reg. 11 (1)

NOTICE TO APPLICANT AS TO RESIDENCE AND USE

In the matter of Application Number Land Registration District, made by under the Joint Family Homes Act 1964.

TAKE notice that unless, before the day of 19..... (being the date six months after the date of the said application),—

(a) You (or you and your wife or husband) reside, or one of you resides, in the dwellinghouse (or flat) to which the said application relates; and

(b) The said dwellinghouse (or flat) and any land being settled therewith are being used exclusively or principally as a home for both or either of you and the members of your household—

the said application will be of no effect and the settlement will be liable to cancellation at any time subsequent to that date, and the estate duty exemption in respect of the property specified in the application will not apply; and if you or either of you subsequently comply with the said conditions as to residence in and use of the property, a fresh application under the said Act will be necessary if settlement under the said Act is still desired.

Dated this day of 19.....

....., District Land Registrar; or Registrar of Deeds.

..... District.

To the applicants(s).

FIRST SCHEDULE—*continued*

Reg. 12

Form 8

APPLICATION FOR CANCELLATION OF REGISTRATION OF JOINT FAMILY HOME

I, (or we), of [Address and occupation], being the joint owners (or the surviving owner or the registered proprietor, as the case may be) of all that parcel of land, being [Full official description, including area, title, or index book reference] which is registered as a joint family home under the Joint Family Homes Act 1964 (and of the following relative shares, namely,) hereby apply for cancellation of the registration of the settlement as to the said land (and shares) which is the whole of (or part of) the property to which the said settlement relates.

Dated this day of 19.....

....., Applicant(s).

Witness to the signature(s) of applicant(s)—
Justice of the Peace, Solicitor, Postmaster,
Clergyman, or other person who may witness
Land Transfer documents.

To the District Land Registrar; or
the Registrar of Deeds,

.....
District.

SECOND SCHEDULE

Reg. 17

FEES PAYABLE TO REGISTRAR

				£	s.	d.
On lodging application	.....	.....	.....	2	0	0
Advertising fee	.....	.....	.....	2	10	0
Entering caveat	.....	.....	.....	1	0	0
Withdrawal or removal of caveat	.....	.....	.....		10	0
For cancelling registration of settlement under any of the provisions of paragraphs (a), (b), and (c) of subsection (1) of section 10, or on the direction of the Court under paragraph (a) of subsection (1) of section 16	.....	.....	.....	1	0	0
For any other cancellation of registration of settlement	.....	.....	.....	No	fee.	

T. J. SHERRARD,
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 consolidate and amend the Joint Family Homes Regulations 1951 so as to bring the provisions of the regulations into line with the Joint Family Homes Act 1964.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 6 May 1965.

These regulations are administered in the Department of Justice.