

1975/12



**THE JOINT FAMILY HOMES REGULATIONS 1965,
AMENDMENT NO. 1**

—
DENIS BLUNDELL, Governor-General

ORDER IN COUNCIL

At the Government Buildings at Wellington this 28th day of January 1975

Present:

THE HON. DR A. M. FINLAY PRESIDING IN COUNCIL

PURSUANT to section 26 of 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. Title and commencement—(1) These regulations may be cited as the Joint Family Homes Regulations 1965, Amendment No. 1, and shall be read together with and deemed part of the Joint Family Homes Regulations 1965* (hereinafter referred to as the principal regulations).

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

2. Application to register—Regulation 3 of the principal regulations is hereby amended by adding, as subclause (2), the following subclause:
“(2) Where such declaration indicates that the applicant or applicants had previously settled land as a joint family home, the Registrar shall notify the District Commissioner of Inland Revenue nearest to the Registrar of that fact and of the number given to the present application pursuant to regulation 4 (2) of these regulations.”

3. Application to register other land as joint family home—The principal regulations are hereby amended by inserting, after regulation 3, the following regulation:

“3A. (1) Every application to the Registrar under section 12A of the Act to register other land as a joint family home shall be embodied in a statutory declaration in the form numbered 1A.

*S.R. 1965/65

“(2) Where any application is made under section 12A of the Act, to the Registrar of a district other than the district of the previous settlement, on request by the applicants or their solicitor or agent, the Registrar in the district of the previous settlement shall make available copies of the previous application and such other instruments as that Registrar may consider necessary to the Registrar dealing with the current application.”

4. Notice of consent in respect of vesting of property and proceeds—The principal regulations are hereby further amended by inserting, after regulation 14, the following regulation:

“14A. Every notice of consent given under section 11 of the Act shall be in the form numbered 9.”

5. First Schedule amended—(1) The First Schedule to the principal regulations is hereby amended—

- (a) By inserting, after the form numbered 1, the form set out in the First Schedule to these regulations:
- (b) By adding the form set out in the Second Schedule to these regulations.

(2) The First Schedule to the principal regulations is hereby further amended by adding to paragraph 6 of the form numbered 1 the words “; and that we have/have not previously been the joint tenants under that Act of a joint family home (the application number of which was) [*Delete if not applicable*]”.

6. Miscellaneous revocations and amendment—(1) The principal regulations are hereby further amended by revoking the following regulations:

- (a) Regulation 4 (1):
- (b) Regulation 13:
- (c) Regulation 16.

(2) Regulation 4 (2) of the principal regulations is hereby consequentially amended by omitting the words “All such applications to each Registrar”, and substituting the words “All applications under section 5 or section 12A of the Act to a Registrar”.

SCHEDULES

Reg. 5 (a)

FIRST SCHEDULE

Reg. 3A

“Form 1A

APPLICATION TO REGISTER OTHER LAND AS JOINT FAMILY HOME

We (or I if sole survivor) of [*Address and occupation*] solemnly and sincerely declare:

1. That we are (or I am) the registered proprietor(s) of [*Full official description of land, including the area and title or index book reference*;

FIRST SCHEDULE—continued

also the street or general locality in which the land is situated] (and of the following relative shares, namely, [*Specify particulars*]).

2. That we (or I) at present (or will within 6 months of the date hereof) reside and have our home in a dwellinghouse (or flat) erected on the said land.

3. That the said dwellinghouse (or flat) and land are (or will be within 6 months of the date hereof) used exclusively as a home by us (or me) and the following members of our (or my) 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*].

4. That we are (or I am) not the owner(s) of any other joint family home registered as such under the provisions of the Joint Family Homes Act 1964.

5. That we (or I) previously settled land as a joint family home in the Land Registration District under application number on the day of 19.....

6. That the land previously settled as a joint family home was disposed of on the day of 19.....

7. That the disposition of the land previously settled as a joint family home was for a fully adequate consideration in money or money's worth payable to us (me).

8. That our (my) share(s) of the net proceeds of disposition have (has) not been intermingled with any other property, and have (has) been (or a sufficient equal part of each share has been) applied in or towards the acquisition of the land the subject of this application. [*If one of the applicants is an undischarged bankrupt, then complete the following*] And that I, as an undischarged bankrupt, gave my share in the net proceeds of disposition to the Official Assignee forthwith after the date of the disposition.

9. That our (my) address for service is

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

And we (or I) 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*

CERTIFICATE BY THE OFFICIAL ASSIGNEE

I,, Official Assignee of, an undischarged bankrupt, hereby certify as follows:

1. That I have received the net proceeds of disposition due to, the undischarged bankrupt.

2. That I invested the said proceeds in Bank Account.

3. That at the request of the undischarged bankrupt I have applied his/her share or a sufficient part thereof for the acquisition of the land in respect of which the above application is made.

Dated this day of 19....

.....
Official Assignee.”

Reg. 5 (b)

SECOND SCHEDULE

Reg. 14A

“Form 9

NOTICE OF CONSENT

We [*Wife and husband*] of [*Address and occupations*] hereby give notice that—

[*Where the joint family home settlement is cancelled*]

1. We do not wish the property to continue to be owned by us in equal shares; and

2. We both consent to the property reverting to that one of us who was the sole owner prior to settlement [*or*] to both of us in the shares we held prior to settlement. [*Delete the option not applicable*]

or

[*Where the joint family home is sold, transferred, or otherwise disposed of*]

1. We do not wish the proceeds to belong to us in equal shares; and

2. We both consent to the proceeds belonging to that one of us who was the sole owner prior to settlement [*or*] to us in proportion to the shares we held prior to settlement. [*Delete the option not applicable*]

Dated this day of 19....

Signatures: [*Wife*]

[*Husband*]

Witness to signatures:

.....
A Solicitor of the Supreme Court of New Zealand.

To the District Land Registrar,

..... District.

EFFECT OF SIGNING THIS FORM

1. Upon the settlement of a joint family home, the husband and the wife become owners of the property as joint tenants.

2. When the home is sold, transferred, or otherwise disposed of, or the settlement is cancelled, the proceeds or the property will be presumed to belong

SECOND SCHEDULE—*continued*

to the husband and wife in equal shares, unless the above notice of consent is signed by both parties.

3. The notice of consent may be signed—

- (a) Where one of the spouses was the sole owner of the property prior to settlement; or
- (b) Where the spouses owned the property in unequal shares prior to settlement.

4. The effect of both parties signing this notice is that the proceeds will belong, or the property will revert, to that spouse who was originally the sole owner or to the spouses in proportion to the shares held prior to settlement.”

P. G. MILLEN,

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 amend the Joint Family Homes Regulations 1965.

Regulation 2 provides that where an application to settle land as a joint family home indicates the applicants have previously been the joint tenants of a joint family home, the Registrar shall advise the District Commissioner of Inland Revenue. This provision is in substitution for the existing advice provision in regulation 13 of the principal regulations which is revoked by regulation 6 (1) (b).

Regulation 3 inserts a new form into the First Schedule of the principal regulations. The new form relates to an application to settle other land under section 12A of the Joint Family Homes Act 1964.

Regulation 4 relates to the notice of consent to be signed by a husband and wife on the sale, transfer, or other disposition of a joint family home, or upon the cancellation of its settlement, in any case where the husband and wife do not want the proceeds or the land to vest in accordance with section 11 of the Act.

Regulation 5 adds the new forms to the First Schedule to the principal regulations, and regulation 6 relates to miscellaneous revocations and an amendment.

The Schedules set out the new forms.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 30 January 1975.

These regulations are administered in the Department of Justice.