



Property (Relationships) Forms Regulations 2001

Silvia Cartwright, Governor-General

Order in Council

At Wellington this 10th day of December 2001

Present:

The Right Hon Helen Clark presiding in Council

Pursuant to section 53 of the Property (Relationships) Act 1976, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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Regulations

1 Title

These regulations are the Property (Relationships) Forms Regulations 2001.

2 Commencement

These regulations come into force on 1 February 2002.

3 Interpretation

In these regulations,—

Act means the Property (Relationships) Act 1976

option A means the option set out in section 61(2) of the Act (that is, to elect to make an application under the Act for a division of the relationship property)

option B means the option set out in section 61(3) of the Act (that is,—

- (a) to elect not to make an application under the Act for a division of the relationship property; and
- (b) if the surviving spouse or de facto partner is a beneficiary under the will of the deceased spouse or de facto partner, to receive that property; and
- (c) if the surviving spouse or de facto partner is entitled to a beneficial interest on the intestacy or partial intestacy of the deceased spouse or de facto partner, to receive that interest).

4 Form of notice of claim to interest, under Act, in certain land

A notice of a claim, under section 42(1) of the Act, to an interest, under the Act, in land subject to the Land Transfer Act 1952, must be in the form set out in Schedule 1.

5 Form of notice of choice of option A or option B by surviving spouse or de facto partner

A written notice indicating a choice by a surviving spouse or de facto partner, under section 61 of the Act, of option A or option B, must be in the form set out in Schedule 2.

Schedule 1

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Notice of claim to interest, under Act, in certain land*Section 42(2), Property (Relationships) Act 1976***Notice of claim, under section 42(1) of the Property
(Relationships) Act 1976, to an interest in certain land**

To the Registrar

..... Land Registration District

Take notice that—

1 I, [*claimant*], of [*address*], [*occupation*], am the spouse or de facto partner of [*spouse or de facto partner*], of [*address*], [*occupation*], who is—

*registered as a proprietor of [*nature of estate or interest*] in the land described below.

*entitled to, or beneficially interested [*nature of estate or interest under Land Transfer Act 1952*] in, the land described below, by virtue of an unregistered agreement or other instrument or transmission, or an express or implied trust, or by virtue of some other circumstances.

*2 My marriage to [*spouse*] took place on [*date*] at [*place*].

or

*2 I have been (*or I am*) in a de facto relationship with [*de facto partner*]. The relationship lasted (*or has to date lasted*) for [*duration*].

3 Under the Property (Relationships) Act 1976, I claim an interest in that estate or interest by virtue of my marriage to [*spouse*] (*or my de facto relationship with [de facto partner]*).

4 I designate [*address*] as the place where notices relating to this notice of claim may be served.

*Delete if inapplicable.

Date: [*date*]

Signed by [name], the [claimant or claimant’s agent or attorney]:

.....
Signature of [claimant or
claimant’s agent or attorney]

In the presence of:

Signature of [witness]
[full name of witness]
[address]
[occupation]

Description of land

[describe land]



Schedule 2

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**Notice of choice of option A or option B
by surviving spouse or de facto partner***Section 65(2)(a), Property (Relationships) Act 1976***Notice of choice of option by surviving spouse or de facto
partner, under section 61 of the Property (Relationships)
Act 1976****Take notice that—**

1 I, [name], of [address], [occupation], am the spouse or de facto partner of [spouse or de facto partner], who died on [date] and, at that time, resided at [address].

*2 My marriage to [spouse] took place on [date] at [place].

or

*2 My de facto relationship with [de facto partner] lasted for [duration].

3 Under section 61 of the Property (Relationships) Act 1976, I choose—

*option A—to elect to make an application under that Act for a division of the relationship property.

or

*option B—

- to elect *not* to make an application under that Act for a division of the relationship property; and
- to receive—
 - any property to which I am entitled as a beneficiary under the will of [spouse or de facto partner]; and
 - any beneficial interest to which I am entitled on his or her intestacy or partial intestacy.

- 4 Communications with me on matters arising from this notice may be sent to [address].

*Delete if inapplicable.

.....
Signature of [name]

.....
Date

Certificate [either to be included in notice, or to accompany it]

I, [lawyer], of [address], lawyer, certify here that I have explained to [name] the effect and implications of this notice.

.....
Signature of [lawyer]

.....
Date

Heading [insert at top, but only if the notice is, under section 65(2)(c) of the Act, to be lodged in a registry of the High Court]

In the High Court
of New Zealand
[place] Registry

P No

In the matter of section 61 of the Property (Relationships) Act 1976 and in the estate of [spouse or de facto partner] of [place], [occupation], deceased.

Notes

- If given by a minor, this notice has effect as if the minor were of full age (see section 65(3) of the Act).
- Under section 65(4) of the Act, a choice of option is effective when a notice indicating the choice is lodged in accordance with section 65(2)(c) of the Act, either by lodging the notice with the administrator of the estate or, if the administration of the estate has not been granted in New Zealand, in the registry of the High Court in which an application for a grant of

administration of that estate would, under the High Court Rules, be required to be filed.

- Once a surviving spouse or de facto partner has chosen option A or option B, that choice cannot be revoked.
- However, under section 69 of the Act, the Court may, if satisfied of the matters stated in section 69(2) of the Act, set aside a choice of option A or option B, on an application made by the surviving spouse or de facto partner before the final distribution of the estate of the deceased spouse or de facto partner.

Marie Shroff,
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, which come into force on 1 February 2002, prescribe the form of the following 2 kinds of notice under the Property (Relationships) Act 1976 (that is, the Matrimonial Property Act 1976 as renamed on that date by the Property (Relationships) Amendment Act 2001):

- a notice of a claim to an interest, under the Act, in certain land (*see* section 42 of the Act); and
 - a notice of a choice of option A or option B by a surviving spouse or de facto partner (*see* sections 61 and 65 of the Act).
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Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 13 December 2001.

These regulations are administered in the Ministry of Justice.
