

Reprint  
as at 18 October 2016



# Property (Relationships) Forms Regulations 2001

(SR 2001/379)

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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#### Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.  
Note 4 at the end of this reprint provides a list of the amendments incorporated.

**These regulations are administered by the Ministry of Justice.**

**Schedule 2**

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**Notice of choice of option A or option B by surviving spouse,  
civil union partner, or de facto partner****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, civil union partner, or de facto partner is a beneficiary under the will of the deceased spouse, civil union partner, or de facto partner, to receive that property; and
- (c) if the surviving spouse, civil union partner, or de facto partner is entitled to a beneficial interest on the intestacy or partial intestacy of the deceased spouse, civil union partner, or de facto partner, to receive that interest).

Regulation 3 **option B** paragraph (b): amended, on 26 April 2005, by section 9 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Regulation 3 **option B** paragraph (c): amended, on 26 April 2005, by section 9 of the Relationships (Statutory References) Act 2005 (2005 No 3).

**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, civil union partner, or de facto partner**

A written notice indicating a choice by a surviving spouse, civil union partner, 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.

Regulation 5 heading: amended, on 26 April 2005, by section 10 of the Relationships (Statutory References) Act 2005 (2005 No 3) .

Regulation 5: amended, on 26 April 2005, by section 10 of the Relationships (Statutory References) Act 2005 (2005 No 3).

## Schedule 1

### Notice of claim to interest, under Act, in certain land

r 4

*Section 42(2), Property (Relationships) Act 1976*

Schedule 1: substituted, on 26 April 2005, by section 11 of the Relationships (Statutory References) Act 2005 (2005 No 3).

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, civil union partner, or de facto partner of [*spouse, civil union partner, 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 entered into a civil union with [*civil union partner*] 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 civil union with [*civil union partner*] *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**  
**Notice of choice of option A or option B by surviving spouse, civil union partner, or de facto partner**

r 5

*Section 65(2)(a), Property (Relationships) Act 1976*

Schedule 2: substituted, on 26 April 2005, by section 11 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Notice of choice of option by surviving spouse, civil union partner, 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, civil union partner, or de facto partner of [*spouse, civil union partner, 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 I entered into a civil union with [*civil union partner*] 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, civil union partner, 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, civil union partner, 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 2016, be required to be filed.
- Once a surviving spouse, civil union partner, 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, civil union partner, or de facto partner before the final distribution of the estate of the deceased spouse, civil union partner, or de facto partner.

Schedule 2 notes: amended, on 18 October 2016, by section 183(c) of the Senior Courts Act 2016 (2016 No 48).

Marie Shroff,  
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2012.  
Date of notification in *Gazette*: 13 December 2001.



## **Reprints notes**

### **1    *General***

This is a reprint of the Property (Relationships) Forms Regulations 2001 that incorporates all the amendments to those regulations as at the date of the last amendment to them.

### **2    *Legal status***

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

### **3    *Editorial and format changes***

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

### **4    *Amendments incorporated in this reprint***

Senior Courts Act 2016 (2016 No 48): section 183(c)

Relationships (Statutory References) Act 2005 (2005 No 3): sections 9, 10, 11