

Reprint
as at 12 November 2018



Joint Family Homes Regulations 1965 (SR 1965/65)

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.

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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.

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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) **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 Schedule 1.

3

- (1) 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.
- (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).

Regulation 3(2): inserted, on 31 January 1975, by regulation 2 of the Joint Family Homes Regulations 1965, Amendment No 1 (SR 1975/12).

3A Application to register other land as joint family home

(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.

(2) *[Revoked]*

Regulation 3A: inserted, on 31 January 1975, by regulation 3 of the Joint Family Homes Regulations 1965, Amendment No 1 (SR 1975/12).

Regulation 3A(2): revoked, on 12 November 2018, by regulation 4 of the Joint Family Homes Amendment Regulations 2018 (LI 2018/190).

4

(1) *[Revoked]*

(2) All applications under section 5 or section 12A of the Act to a 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) If an application relates to only part of the land recorded in a record of title, the Registrar, before registering the settlement in respect of the land, must require the registered proprietor to apply for a new record of title for that part, and section 224 of the Land Transfer Act 2017 applies to the application for that record of title.

Regulation 4(1): revoked, on 31 January 1975, by regulation 6(1)(a) of the Joint Family Homes Regulations 1965, Amendment No 1 (SR 1975/12).

Regulation 4(2): amended, on 31 January 1975, by regulation 6(2) of the Joint Family Homes Regulations 1965, Amendment No 1 (SR 1975/12).

Regulation 4(4): replaced, on 12 November 2018, by regulation 5 of the Joint Family Homes Amendment Regulations 2018 (LI 2018/190).

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.

5A Electronic lodgement of applications under section 5 or 12A of Act

- (1) An application to the Registrar under section 5 or 12A of the Act to register land as a joint family home may be made and lodged as an electronic instrument under the Land Transfer Act 2017.
- (2) The application must be supported by a copy of—
 - (a) a statutory declaration in form 1 or 1A (as the case may require); and
 - (b) the husband or wife's consent under section 5(1) of the Act (if applicable).

Regulation 5A: inserted, on 29 September 2008, by regulation 4 of the Joint Family Homes Amendment Regulations 2008 (SR 2008/280).

Regulation 5A(1): amended, on 12 November 2018, by regulation 6 of the Joint Family Homes Amendment Regulations 2018 (LI 2018/190).

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 dwellinghouse or flat that is being settled, and as to the use of that dwellinghouse or flat and any appurtenant land, are not being satisfied at the date of the application but will be satisfied within 6 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) shall apply in connection with any application that is lodged with the Registrar more than 6 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

[Revoked]

Regulation 13: revoked, on 31 January 1975, by regulation 6(1)(b) of the Joint Family Homes Regulations 1965, Amendment No 1 (SR 1975/12).

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 record of title for that part, and section 224 of the Land Transfer Act 2017 applies to the application for that record of title.

Regulation 14: amended, on 12 November 2018, by regulation 7 of the Joint Family Homes Amendment Regulations 2018 (LI 2018/190).

14A Notice of consent in respect of vesting of property and proceeds

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

Regulation 14A: inserted, on 31 January 1975, by regulation 4 of the Joint Family Homes Regulations 1965, Amendment No 1 (SR 1975/12).

15

Where any form in Schedule 1 is prescribed or authorised to be used, such variations may be made therein as the circumstances of any particular case may require.

16

[Revoked]

Regulation 16: revoked, on 31 January 1975, by regulation 6(1)(c) of the Joint Family Homes Regulations 1975, Amendment No 1 (SR 1975/12).

17

[Revoked]

Regulation 17: revoked, on 8 December 1971, by section 2(3) of the Joint Family Homes Amendment Act 1971 (1971 No 104).

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 High Court or a Judge thereof may direct.

Regulation 18(d): amended, on 1 January 2004, by section 48(3) of the Supreme Court Act 2003 (2003 No 53).

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 High Court or in a District Court pursuant to the provisions of the Act like fees to those fixed by the High Court Rules 2016 or the District Courts Rules 2009 (as the case may be) in respect of similar proceedings.

Regulation 20: amended, on 18 October 2016, by section 183(c) of the Senior Courts Act 2016 (2016 No 48).

Regulation 20: amended, on 1 November 2009, pursuant to rule 17.1 of the District Court Rules 2009 (SR 2009/257).

Regulation 20: amended, on 1 January 2004, by section 48(3) of the Supreme Court Act 2003 (2003 No 53).

Regulation 20: amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

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.

Schedule 1**Forms****Contents**

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Form 1
Application to register land as a joint family home

r 3

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 1 person only].
- 3 That my wife (or husband) and I (or we) at present (or will within 6 months of the date) reside and have our home in a dwellinghouse (or flat) erected on the said land.
- 4 That the said dwellinghouse (or flat) and land are (or will within 6 months of the date 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 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; and that we have/have not previously been the joint tenants under that Act of a joint family home (at [specify]) [give full address if applicable].
- 7 That the place (or several places) where I (or we) have during the 12 months preceding the date 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 [specify].

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 [*place, date*], before me:

Justice of the Peace; or Solicitor:

Signature(s):

Schedule 1 form 1: amended, on 20 July 1978, by regulation 2(1) of the Joint Family Homes Regulations 1965, Amendment No 2 (SR 1978/189).

Form 1A
Application to register other land as joint family home

r 3A

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; 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*) 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*) 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 [*specify*] Land Registration District under application number [*specify*] on [*date*].
- 6 That the land previously settled as a joint family home was disposed of on [*date*].
- 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 [*specify*], 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 [*specify*].

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 [*place, date*], before me:

Justice of the Peace; or Solicitor:

Signature(s):

Certificate by the Official Assignee

I, [*specify*], Official Assignee of [*specify*], an undischarged bankrupt, hereby certify as follows:

- 1 That I have received the net proceeds of disposition due to [*specify*], the undischarged bankrupt.
- 2 That I invested the said proceeds in [*specify*] 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:

Official Assignee:

Schedule 1 form 1A: inserted, on 31 January 1975, by regulation 5(1)(a) of the Joint Family Homes Regulations 1965, Amendment No 1 (SR 1975/12).

Form 2
Notice under the Joint Family Homes Act 1964

r 5

Notice is hereby given that [*full name(s), address(es), and occupation(s)*] has (*or have*), by application number [*specify*], 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 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:

[*Signature*]

Registrar-General of Land; or Registrar of Deeds

[*Name of district*] District.

Schedule 1 form 2: amended, on 12 November 2018, by regulation 8(1) of the Joint Family Homes Amendment Regulations 2018 (LI 2018/190).

Schedule 1 form 2: amended, on 12 November 2018, by regulation 8(2) of the Joint Family Homes Amendment Regulations 2018 (LI 2018/190).

Form 3
Caveat under the Joint Family Homes Act 1964

r 6

In the matter of application number:

[*Specify*] Land Registration District, made by [*specify*] under the Joint Family Homes Act 1964.

Take notice that I, [*name*] 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: [*specify*]

Dated:

Caveator:

Witness to the signature of Caveator:

[*Signature*]

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

To the Registrar-General of Land; or the Registrar of Deeds,

[*Name of district*] District.

Schedule 1 form 3: amended, on 12 November 2018, by regulation 8(2) of the Joint Family Homes Amendment Regulations 2018 (LI 2018/190).

Form 4
Notice of entry of caveat

r 7

In the matter of application number:

[*Specify*] Land Registration District, made by [*specify*] under the Joint Family Homes Act 1964.

Take notice that [*specify*], of [*address and occupation*], claiming to be a creditor of [*specify*] (*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:

[*Signature*]
Registrar-General of Land; or Registrar of Deeds
[*Name of district*] District.

To the applicant(s).

Schedule 1 form 4: amended, on 12 November 2018, by regulation 8(2) of the Joint Family Homes Amendment Regulations 2018 (LI 2018/190).

Form 5
Notice of withdrawal of caveat

r 8

In the matter of application number:

[*Specify*] Land Registration District, made by [*specify*] under the Joint Family Homes Act 1964.

Take notice that I, [*specify*] of [*address and occupation*], hereby withdraw the caveat lodged by me forbidding the granting of the above application.

Dated:

Caveator:

Witness to the signature of Caveator:

[*Signature*]

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

To the Registrar-General of Land; or the Registrar of Deeds,

[*Name of district*] District.

Schedule 1 form 5: amended, on 12 November 2018, by regulation 8(2) of the Joint Family Homes Amendment Regulations 2018 (LI 2018/190).

Form 6
Withdrawal of application

r 9

In the matter of application number:

[*Specify*] Land Registration District, made by [*specify*] under the Joint Family Homes Act 1964.

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

Dated:

Applicant(s):

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

[*Signature*]

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

To the Registrar-General of Land; or the Registrar of Deeds,

[*Name of district*] District.

Schedule 1 form 6: amended, on 12 November 2018, by regulation 8(2) of the Joint Family Homes Amendment Regulations 2018 (LI 2018/190).

Form 7
Notice to applicant as to residence and use

r 11(1)

In the matter of application number:

[*Specify*] Land Registration District, made by [*specify*] under the Joint Family Homes Act 1964.

Take notice that unless, before [*date*] (being the date 6 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 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:

[*Signature*]

Registrar-General of Land; or Registrar of Deeds

[*Name of district*] District.

To the applicants(s).

Schedule 1 form 7: amended, on 12 November 2018, by regulation 8(2) of the Joint Family Homes Amendment Regulations 2018 (LI 2018/190).

Schedule 1 form 7: amended, on 24 May 1999, by section 15(2) of the Estate Duty Repeal Act 1999 (1999 No 64).

Form 8

Application for cancellation of registration of joint family home

r 12

I, (*or we*), [*specify*] 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, [*specify*]) 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:

Applicant(s):

Witness to the signature(s) of applicant(s):

[*Signature*]

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

To the Registrar-General of Land; or the Registrar of Deeds,

[*Name of district*] District.

Schedule 1 form 8: amended, on 12 November 2018, by regulation 8(2) of the Joint Family Homes Amendment Regulations 2018 (LI 2018/190).

Form 9
Notice of consent

r 14A

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:

Signatures: [*wife*] [*husband*]

Witness to signatures:

[*Signature*]

(A Solicitor of the High Court of New Zealand)

To the Registrar-General of Land,
[*Name of district*] 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 of the property will be presumed to belong 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.

Schedule 1 form 9: inserted, on 31 January 1975, by regulation 5(1)(b) of the Joint Family Homes Regulations 1965, Amendment No 1 (SR 1975/12).

Schedule 1 form 9: amended, on 12 November 2018, by regulation 8(2) of the Joint Family Homes Amendment Regulations 2018 (LI 2018/190).

Schedule 1 form 9: amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Schedule 2
Fees payable to Registrar

[Revoked]

r 17

Schedule 2: revoked, on 8 December 1971, by section 2(3) of the Joint Family Homes Amendment Act 1971 (1971 No 104).

T J Sherrard,
Clerk of the Executive Council.

Reprints notes

1 *General*

This is a reprint of the Joint Family Homes Regulations 1965 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*

Joint Family Homes Amendment Regulations 2018 (LI 2018/190)

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

District Court Rules 2009 (SR 2009/257): rule 17.1

Joint Family Homes Amendment Regulations 2008 (SR 2008/280)

Supreme Court Act 2003 (2003 No 53): section 48(3)

Estate Duty Repeal Act 1999 (1999 No 64): section 15(2)

District Courts Amendment Act 1979 (1979 No 125): section 18(2)

Judicature Amendment Act 1979 (1979 No 124): section 12

Joint Family Homes Regulations 1965, Amendment No 2 (SR 1978/189)

Joint Family Homes Regulations 1965, Amendment No 1 (SR 1975/12)

Joint Family Homes Amendment Act 1971 (1971 No 104): section 2(3)