

1959/37



**THE FAMILY BENEFITS (HOME OWNERSHIP)  
REGULATIONS 1959**

COBHAM, Governor-General  
ORDER IN COUNCIL

At the Government Buildings at Wellington this 18th day of March 1959

Present:  
THE RIGHT HON. W. NASH PRESIDING IN COUNCIL

PURSUANT to the Family Benefits (Home Ownership) Act 1958, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

**REGULATIONS**

*Title and Commencement*

1. (1) These regulations may be cited as the Family Benefits (Home Ownership) Regulations 1959.

(2) These regulations shall come into force on the 1st day of April 1959.

*Interpretation*

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

“The Act” means the Family Benefits (Home Ownership) Act 1958:

“Advance” means an advance for housing purposes under the Act:

“Charge holder” means the person in whose favour a charge is taken under regulation 9 hereof:

“Commission” means the Social Security Commission appointed under the Social Security Act 1938:

“Dwelling” includes all necessary outbuildings and appurtenances in connection with a dwelling:

Expressions defined in the Act have the meanings so defined.

*Administration*

3. (1) These regulations shall be administered by the Minister of Social Security.

(2) The powers conferred by these regulations shall be exercised under the general direction and control of the Minister of Social Security.

*Applications for Advances*

4. (1) Every application for an advance shall be made by the beneficiary on a form provided for the purpose by the Commission, and shall be lodged in an office of the Social Security Department.

(2) Every beneficiary applying for an advance shall supply in writing such information in support of his application as the Commission requires, and shall declare that the contents of his application are true and correct in every material point.

(3) Where the beneficiary is married, the Commission may require the application to be made jointly by the beneficiary and the spouse of the beneficiary.

(4) It shall be the duty of every person to make true answers to all questions put to him by any member of the Commission or by a Registrar of the Social Security Department or by any authorised officer of that Department or of the State Advances Corporation of New Zealand or of the Department of Maori Affairs in respect of any application for an advance or other matter arising under these regulations and, without requiring the payment of any fee, to furnish in writing such certificates or information as may be required for the purposes of these regulations.

*Housing Purposes for Which Advances May be Made*

5. The following purposes are hereby declared to be housing purposes for which advances may be made, namely:

- (a) The acquisition of land and the erection thereon of a new dwelling, provided it will be used by the beneficiary as a home for the family of the beneficiary:
- (b) The acquisition of land with a new dwelling thereon that has not previously been occupied, provided it will be used by the beneficiary as a home for the family of the beneficiary:
- (c) The erection of a new dwelling on land owned by the beneficiary or by the beneficiary and the spouse of the beneficiary, provided it will be used by the beneficiary as a home for the family of the beneficiary:
- (d) The making of alterations or additions to a dwelling on land owned by the beneficiary or by the beneficiary and the spouse of the beneficiary to provide additional accommodation required for the needs of the family of the beneficiary:
- (e) The discharge or partial discharge of encumbrances existing on the 1st day of January 1959 on a dwelling owned on that date by the beneficiary or by the beneficiary and the spouse of the beneficiary, provided it is being and will continue to be used by the beneficiary as a home for the family of the beneficiary:
- (f) The payment or partial payment of the purchase money owing by the beneficiary or by the beneficiary and the spouse of the beneficiary on the 1st day of January 1959 under a registered agreement for the sale and purchase of land on which a dwelling is erected or under a registered lease or licence under which the beneficiary or the beneficiary and the spouse of the beneficiary are purchasing the fee simple of land on which a dwelling is erected, provided it is being used and will continue to be used by the beneficiary as a home for the family of the beneficiary:

(g) The discharge or partial discharge of any other debt owing on the 1st day of January 1959 by the beneficiary or by the beneficiary and the spouse of the beneficiary and bona fide incurred in—

(i) The acquisition of land on which a dwelling is erected or the erection of a dwelling on land owned by the beneficiary or by the beneficiary and the spouse of the beneficiary; or

(ii) Making alterations or additions to a dwelling on land owned by the beneficiary or by the beneficiary and the spouse of the beneficiary to provide additional accommodation required for the needs of the family of the beneficiary,—  
provided the dwelling is being used and will continue to be used by the beneficiary as a home for the family of the beneficiary:

Provided that no such purpose shall be deemed to be a housing purpose unless the land in respect of which the advance is to be made complies with the provisions of section 6 of the Act.

#### *Eligibility of Beneficiaries*

6. (1) Where the Commission is satisfied that the applicant for an advance is eligible to receive an advance and that the purpose for which the advance is applied for is a housing purpose as defined in regulation 5 hereof, the Commission shall issue to the applicant a certificate of eligibility in a form provided for the purpose by the Commission, stating that the applicant is eligible for an advance and specifying the housing purpose for which an advance may be made, the capitalised value of the family benefit or benefits in respect of which an advance may be made, and the date as at which the capitalised value of the benefit or benefits has been ascertained:

Provided that a certificate of eligibility shall not be issued to the applicant unless—

- (a) The child in respect of whom the family benefit is payable has attained the age of one year; and
- (b) The applicant has resided in New Zealand for a period or periods aggregating not less than three years during the period of 10 years immediately preceding the date of his application for an advance.

(2) For the purposes of this regulation a beneficiary shall be deemed to have resided in New Zealand during any period (whether before or after the commencement of these regulations) during which, pursuant to section 19 of the Social Security Amendment Act 1947, he is deemed for the purposes of Part II of the Social Security Act 1938 to have been resident in New Zealand.

(3) The decision of the Commission as to whether or not an applicant is eligible for an advance shall be final.

(4) Except in any case where after the issue of a certificate of eligibility the beneficiary ceases to be eligible for an advance, every such certificate shall continue in force for a period of 12 months and may, on the application of the beneficiary, be renewed from time to time by the Commission for further periods of 12 months.

(5) Where a certificate of eligibility is issued to a beneficiary, the family benefit or benefits shall cease to be payable to the beneficiary on and from the date specified in the certificate as the date as at which the capitalised value of the benefit or benefits has been ascertained.

*Advances to Beneficiaries*

7. Subject to the limits specified in section 3 of the Act, an advance for any housing purpose specified in regulation 5 hereof may be made to any eligible beneficiary, upon such terms and subject to such conditions as the charge holder determines.

*Amount of Advances*

8. (1) The capitalised value of a family benefit for the purposes of an advance shall be calculated in accordance with the table set out in the First Schedule to these regulations, having regard to the number of four-weekly pay periods that will occur from the date on which the benefit ceases to be payable to the beneficiary by reason of the advance until the end of the period for which the benefit is to be capitalised.

(2) The advance which, pursuant to paragraph (a) of the proviso to section 3 of the Act, may be made of the capitalised value of the family benefits payable in respect of two or more children of a beneficiary shall not exceed the aggregate of the capitalised values of all those benefits (calculated in accordance with the table set out in the First Schedule to these regulations) or the sum of £1,000, whichever amount is the less.

(3) An advance may be made of the capitalised value of a family benefit payable in respect of any child for a period expiring at the end of the pay period in which the child attains the age of 16 years or for any shorter period.

(4) Where an advance or any part thereof is made of the capitalised value of a family benefit calculated in respect of any period expiring before the child attains the age of 16 years,—

(a) The benefit shall cease to be payable to the beneficiary; and

(b) On the expiration of that period, unless it has sooner become repayable pursuant to a demand under regulation 10 hereof, the advance, or so much thereof as was made in respect of the family benefit payable in respect of that child, shall be deemed to have been repaid; and

(c) Thereafter, if the benefit continues to be payable in respect of the child, it shall be paid to the person entitled to receive payment thereof under the Social Security Act 1938.

*Advances to be Secured by Charge*

9. (1) Every charge created by section 7 of the Act shall be taken—

(a) In favour of Her Majesty the Queen in any case where a loan on the security of the land has been granted or applied for under the Maori Housing Act 1935 or the Maori Trustee Act 1953;

(b) In favour of the State Advances Corporation of New Zealand in any other case.

(2) Where an advance is made for any housing purpose specified in paragraph (f) of regulation 5 hereof, the charge securing the repayment of the advance shall charge the interest of the beneficiary or, as the case may be, of the beneficiary and the spouse of the beneficiary in the agreement or lease or licence (or the fee simple, if the advance is applied in payment in full of the purchase money), and shall rank immediately before all other encumbrances registered against the agreement or lease or licence or, where the advance is applied in payment

in full of the purchase money, immediately before all encumbrances to which the agreement or lease or licence was subject immediately before the acquisition of the fee simple by the beneficiary or by the beneficiary and the spouse of the beneficiary:

Provided that the charge holder may agree to accept a lower ranking in order of priority.

(3) The provisions of the Property Law Act 1952 shall apply with respect to every such charge as if the charge were a mortgage of the land and as if references to the mortgagor and to the mortgagee were references to the person giving the charge and to the charge holder respectively. In particular, without limiting the generality of the foregoing provisions of this subclause, there shall be implied therein on the part of the person giving the charge the covenants by the mortgagor specified in the Fourth Schedule to that Act, and in favour of the charge holder the powers and conditions specified in that Schedule.

(4) Where the land over which any such charge in favour of the State Advances Corporation of New Zealand is taken is a tenure of any of the kinds referred to in section 6 of the State Advances Corporation Amendment Act 1935, the provisions of that section, as far as they are applicable and with the necessary modifications, shall apply as if the advance was a loan granted by the Corporation and as if references in that section to a mortgage and to the mortgagor were references to the charge and the person giving the charge respectively.

(5) Every such charge in favour of Her Majesty the Queen may be enforced, sued upon, varied, or released on behalf of Her Majesty by any person for the time being authorised by the Board of Maori Affairs under section 30 of the Maori Housing Amendment Act 1938 or section 10 of the Maori Affairs Act 1953 to take proceedings or execute documents for the purposes of the Maori Housing Act 1935.

#### *Repayment of Advances*

10. (1) The unpaid balance of an advance shall be repayable upon demand signed by the charge holder or by the person entitled to enforce the charge under regulation 9 hereof, or by any agent or servant or clerk of the charge holder or that person, served upon the beneficiary, either personally or by posting the notice in a duly registered letter addressed to him at his usual or last known place of abode in New Zealand.

(2) Without limiting the circumstances in which such a demand may be made, demand may in the discretion of the charge holder be made—

- (a) On the occurrence of any event (other than the death, after the expiration of one year from the date of the advance, of a child in respect of whom the benefit was payable) by reason of which the benefit or any part thereof would have ceased to be payable to the beneficiary if it had not been capitalised under the Act; or
- (b) On the transfer or lease or other disposition by the beneficiary of the land in respect of which the advance was made or the occurrence of any event by which the beneficiary ceases to be the owner or one of the owners of the land; or
- (c) On the beneficiary, or any child in respect of whom a benefit to which the advance relates was payable, ceasing to occupy as a home the land in respect of which the advance was made; or

- (d) On the conviction of the beneficiary of any offence against these regulations or of an offence against the Social Security Act 1938 relating to a family benefit in respect of which the advance was made.
- (3) Where the child in respect of whom a family benefit was payable dies within one year after the date of an advance in respect of that benefit, the unpaid balance of the advance, unless it is sooner repaid by the beneficiary, shall remain charged against the land until repayment is required by the charge holder.
- (4) For the purposes of these regulations, the date of an advance shall be deemed to be the date on which the family benefit ceases to be payable to the beneficiary by reason of the advance.

#### *Calculation of Unpaid Balance of Advance*

11. For the purpose of these regulations, the amount of the unpaid balance of an advance shall be calculated in accordance with the table set out in the First Schedule to these regulations, and shall be an amount equal to the capitalised value of a benefit capitalised as at the date of the event which results in the advance becoming repayable, and calculated according to the number of four-weekly pay periods that will occur during the period commencing on that date and expiring at the end of the period for which the benefit was originally capitalised.

#### *Interest on Unpaid Balance of Advance*

12. (1) The unpaid balance of an advance shall bear interest, if demanded by or on behalf of the charge holder, at the rate of £3 per cent per annum in any case where the advance has become repayable by reason of the death within one year after the date of the advance of the child in respect of whom the family benefit was payable, and at the rate of £5 per cent per annum in any other case, or at such lower rate as the charge holder in any particular case decides, from a date specified in the demand, being a date not earlier than the date of the event which results in the advance becoming repayable.

(2) Interest so accruing, if not paid following demand on the expiration of any half-year calculated from the date so specified in the demand, shall thereupon be deemed to have been converted into principal and shall be chargeable with interest as aforesaid.

#### *Registration of Charges and Releases of Charges*

13. (1) Registration of a charge created by section 7 of the Act may be effected by depositing in duplicate with the District Land Registrar or other appropriate registering authority an instrument in form 1 in the Second Schedule to these regulations.

(2) Subject to the provisions of section 7 (2) of the Act, the order of priority in which the charge shall rank in relation to any existing encumbrances shall be specified in the charge.

(3) Where any advance is repaid or deemed to have been repaid, the charge holder shall execute in form 2 in the Second Schedule to these regulations a release of the charge, which shall, upon presentation, be registered by the District Land Registrar or other appropriate registering authority. Where a charge is to be partially released, such modifications shall be made in the said form 2 as may be necessary.

(4) Where the advance was made of the capitalised value of the family benefits payable in respect of two or more children, a partial release of the charge may be executed and registered when so much of the advance as was made in respect of the benefit payable in respect of any one such child has been repaid or is deemed to have been repaid.

*Exemption from Fees*

14. No fee shall be payable under any Act in respect of the registration of any document required for the purpose of registering or releasing (whether wholly or in part) any charge created under section 7 of the Act.

*Declarations*

15. Any declaration required to be made for the purposes of these regulations may be made before—

- (a) Any person authorised to take a declaration under regulation 6 of the Social Security (Monetary Benefits) Regulations 1939;\* or
- (b) Any person authorised to take a statutory declaration; or
- (c) In the case of a declaration by a Maori, any of the aforesaid persons or any person authorised under section 222 of the Maori Affairs Act 1953 to attest an instrument of alienation of Maori land.

*Offences and Penalties*

16. (1) Every person commits an offence against these regulations who—

- (a) In relation to any application for an advance, whether to himself or to any other person, makes any false statement or otherwise attempts to mislead any officer concerned in the administration of the Act or any other person whomsoever; or
- (b) Being a beneficiary or the spouse of a beneficiary to whom an advance has been made,—
  - (i) Fails, within a reasonable time after being required so to do, to supply in writing to the Commission any information reasonably required by the Commission for the purpose of ascertaining whether or not the conditions on which the advance was made have been fulfilled or whether or not any event has occurred by reason of which the advance or any part thereof has become repayable; or
  - (ii) Supplies any such information which is false or misleading in any material particular; or
- (c) Except in a case to which paragraph (a) or paragraph (b) of this subclause applies, wilfully fails to comply with any of the requirements of subclause (4) of regulation 4 hereof.

(2) Every person who commits an offence against paragraph (a) or paragraph (b) of subclause (1) of this regulation is liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding £100.

(3) Every person who commits an offence against paragraph (c) of subclause (1) of this regulation is liable on summary conviction to a fine not exceeding £10.

\*S.R. 1939/55  
Amendment No. 1: S.R. 1958/200

## SCHEDULES

Regs. 8 (1), 11

## FIRST SCHEDULE

TABLE FOR CALCULATING CAPITALISED VALUE OF FAMILY BENEFITS AND  
UNPAID BALANCE OF ADVANCES

Number of Four-weekly Pay Periods for Which Benefit Capitalised	Capitalised Value of Benefit	Number of Four-weekly Pay Periods for Which Benefit Capitalised	Capitalised Value of Benefit
	£ s. d.		£ s. d.
1	3 0 0	44	125 8 0
2	6 0 0	45	128 2 0
3	8 19 0	46	130 16 0
4	11 18 0	47	133 10 0
5	14 17 0	48	136 4 0
6	17 16 0	49	138 18 0
7	20 15 0	50	141 12 0
8	23 14 0	51	144 6 0
9	26 13 0	52	146 19 0
10	29 12 0	53	149 12 0
11	32 11 0	54	152 5 0
12	35 10 0	55	154 18 0
13	38 8 0	56	157 11 0
14	41 6 0	57	160 4 0
15	44 4 0	58	162 17 0
16	47 2 0	59	165 9 0
17	50 0 0	60	168 1 0
18	52 18 0	61	170 13 0
19	55 15 0	62	173 5 0
20	58 12 0	63	175 17 0
21	61 9 0	64	178 9 0
22	64 6 0	65	181 1 0
23	67 3 0	66	183 13 0
24	70 0 0	67	186 4 0
25	72 17 0	68	188 15 0
26	75 13 0	69	191 6 0
27	78 9 0	70	193 17 0
28	81 5 0	71	196 8 0
29	84 1 0	72	198 19 0
30	86 17 0	73	201 10 0
31	89 13 0	74	204 1 0
32	92 9 0	75	206 12 0
33	95 5 0	76	209 3 0
34	98 1 0	77	211 13 0
35	100 16 0	78	214 3 0
36	103 11 0	79	216 13 0
37	106 6 0	80	219 3 0
38	109 1 0	81	221 13 0
39	111 16 0	82	224 3 0
40	114 11 0	83	226 13 0
41	117 6 0	84	229 2 0
42	120 0 0	85	231 11 0
43	122 14 0	86	234 0 0



FIRST SCHEDULE—*continued*

Number of Four-weekly Pay Periods for Which Benefit Capitalised	Capitalised Value of Benefit			Number of Four-weekly Pay Periods for Which Benefit Capitalised	Capitalised Value of Benefit		
	£	s.	d.		£	s.	d.
87	236	9	0	134	345	13	0
88	238	18	0	135	347	17	0
89	241	7	0	136	350	1	0
90	243	16	0	137	352	5	0
91	246	5	0	138	354	9	0
92	248	14	0	139	356	12	0
93	251	2	0	140	358	15	0
94	253	10	0	141	360	18	0
95	255	18	0	142	363	1	0
96	258	6	0	143	365	4	0
97	260	14	0	144	367	7	0
98	263	2	0	145	369	10	0
99	265	10	0	146	371	13	0
100	267	18	0	147	373	16	0
101	270	6	0	148	375	19	0
102	272	14	0	149	378	1	0
103	275	1	0	150	380	3	0
104	277	8	0	151	382	5	0
105	279	15	0	152	384	7	0
106	282	2	0	153	386	9	0
107	284	9	0	154	388	11	0
108	286	16	0	155	390	13	0
109	289	3	0	156	392	15	0
110	291	9	0	157	394	17	0
111	293	15	0	158	396	19	0
112	296	1	0	159	399	0	0
113	298	7	0	160	401	1	0
114	300	13	0	161	403	2	0
115	302	19	0	162	405	3	0
116	305	5	0	163	407	4	0
117	307	11	0	164	409	5	0
118	309	17	0	165	411	6	0
119	312	3	0	166	413	7	0
120	314	8	0	167	415	8	0
121	316	13	0	168	417	9	0
122	318	18	0	169	419	9	0
123	321	3	0	170	421	9	0
124	323	8	0	171	423	9	0
125	325	13	0	172	425	9	0
126	327	18	0	173	427	9	0
127	330	3	0	174	429	9	0
128	332	8	0	175	431	9	0
129	334	13	0	176	433	9	0
130	336	17	0	177	435	9	0
131	339	1	0	178	437	9	0
132	341	5	0	179	439	8	0
133	343	9	0	180	441	7	0

FIRST SCHEDULE—*continued*

Number of Four-weekly Pay Periods for Which Benefit Capitalised	Capitalised Value of Benefit			Number of Four-weekly Pay Periods for Which Benefit Capitalised	Capitalised Value of Benefit		
	£	s.	d.		£	s.	d.
181	443	6	0	190	460	13	0
182	445	5	0	191	462	11	0
183	447	4	0	192	464	9	0
184	449	3	0	193	466	7	0
185	451	2	0	194	468	5	0
186	453	1	0	195	470	2	0
187	454	19	0	196	471	19	0
188	456	17	0	197	473	16	0
189	458	15	0				

SECOND SCHEDULE

Reg. 13 (1)

Form 1

CHARGE UNDER SECTION 7 OF THE FAMILY BENEFITS  
(HOME OWNERSHIP) ACT 1958

(Exempt from stamp duty under section 8)

FULL name(s) of registered proprietor(s) (deemed by regulations under the above Act to be "the mortgagor"):

Estate: .....

Land: [*Area and particulars*] .....

Reference to title in register: .....

The ranking of this charge in relation to existing encumbrances in their order of priority is shown in the Schedule hereto.

Charge holder (deemed by regulations under the above Act to be "the mortgagee"):

Advance: £ .....

Date of advance: .....

Rate of interest: As prescribed by or pursuant to regulation 12 of the Family Benefits (Home Ownership) Regulations 1959.

How and when principal and interest repayable: Upon demand.

Special covenants or conditions: .....

And for the better securing to the charge holder the repayment of the said advance and interest and other money I (we) hereby charge and mortgage to the charge holder all my (our) estate and interest in the land above described.

SCHEDULE

*Ranking of Charge in Relation to Existing Encumbrances in Order of Priority*

E.g. First - Memorandum of mortgage No. .... securing the sum of £ .....

Second - This charge.

Third - Memorandum of mortgage No. .... securing the sum of £ .....

As witness my (our) hand(s) this ..... day of ..... 19....  
Signed by the said ..... }  
in the presence of: }

SECOND SCHEDULE—*continued*

Reg. 13 (2)

## Form 2

## RELEASE OF CHARGE

[*Name of charge holder*] as the charge holder under the within-written charge hereby for valuable consideration received releases from that charge the within-described land, estate, and interest, which ceases to be subject to the charge or liable for the repayment of the advance secured by the charge.

Dated this ..... day of ..... 19.....

[*To be executed by charge holder or person authorised to sign release on behalf of charge holder.*]

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—

- (a) Prescribe the procedure for applying for advances for housing purposes under the Family Benefits (Home Ownership) Act 1958:
- (b) Define what are housing purposes for which such advances may be made:
- (c) Provide that the Social Security Commission is to determine eligibility for an advance, subject to the requirement that the child in respect of whom the benefit is payable is at least one year of age and that the beneficiary must have resided in New Zealand for an aggregate period of at least three years during the period of 10 years preceding his application for an advance:
- (d) Prescribe tables fixing the manner in which the capitalised values are to be ascertained:
- (e) Enable a beneficiary to elect to capitalise a benefit for a period expiring before the child attains 16 years of age:
- (f) Define the circumstances under which the unpaid balance of an advance is repayable by the beneficiary:
- (g) Prescribe the manner in which the unpaid balance is to be calculated:
- (h) Prescribe the manner in which charges securing the repayment of advances are to be registered and released and the manner in which charges are to be enforced:
- (i) Exempt from registration fees any document required for the purpose of registering, varying, or releasing any such charge.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 19 March 1959.

These regulations are administered in the Social Security Department.