

Serial Number 1951/28

THE JOINT FAMILY HOMES REGULATIONS 1951

B. C. FREYBERG, Governor-General

ORDER IN COUNCIL

At the Government Buildings at Wellington, this 27th day of
February, 1951

Present :

THE HON. K. J. HOLYOAKE PRESIDING IN COUNCIL

PURSUANT to the Joint Family Homes Act, 1950, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, doth hereby make the following regulations

REGULATIONS

1. (1) These regulations may be cited as the Joint Family Homes Regulations 1951.

(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) “The Act” means the Joint Family Homes Act, 1950, and amendments thereof :

(b) Every reference to a numbered form shall be construed as a reference to the form so numbered in the First Schedule to these regulations.

3. Every application to the Registrar under section 4 of the Act to register any land as a joint family home shall be in the form numbered 1, and shall be accompanied by—

(a) A statutory declaration by the applicant in the form numbered 2; and

(b) A certificate from the Valuer-General as to the capital value, within the meaning of the Valuation of Land Act, 1925, of the land specified in the application as at the date specified in the certificate; and

(c) Such additional evidence (if any) as the Registrar may require as to any increase in the capital value of the land subsequent to the date specified in the Valuer-General’s certificate.

4. (1) The District Land Registrar for each land registration district shall keep a register of all applications under section 4 of the Act relating to land within that district, and of all proceedings thereon.

(2) All such applications shall be numbered consecutively in the order of their reception by the District Land Registrar or Registrar of Deeds, 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) Where an application relates to part only of the land in a certificate of title, the Registrar, before issuing a Joint Family Home Certificate in respect of the land, shall require the registered proprietor to apply for a new certificate of title for that part, and the provisions of section 178 of the Land Transfer Act, 1915, shall apply to the application for that certificate.

5. The form prescribed by the Valuation of Land Regulations 1949* for applications to the Valuer-General to make a new valuation or for a certified copy of an entry on the district valuation roll shall be used where the application to the Valuer-General is made for the purposes of the Act; and, where the application is for a new valuation the applicant shall specify the date as at which the valuation is required. The provisions of the Valuation of Land Regulations 1949*, so far as they are applicable and with the necessary modifications, shall apply to all such valuations which are made for the purposes of the Act.

6. As soon as practicable after the receipt of an application under section 4 of the Act 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 3 and shall appear in each such newspaper at least twice on dates specified or approved by the Registrar.

7. Every caveat under section 5 of the Act in respect of any application to register any land as a joint family home shall be in the form numbered 4; and upon receipt of any caveat the Registrar shall enter particulars thereof in the register of applications.

8. Every notice of entry of caveat shall be in the form numbered 5.

9. Every notice of withdrawal of caveat shall be in the form numbered 6.

10. Every notice of withdrawal of application under subsection (4) of section 5 of the Act shall be in the form numbered 7.

11. Every Joint Family Home Certificate under section 6 of the Act shall be in the form numbered 8. All such certificates issued in each district shall be numbered consecutively, and each certificate shall be referred to by the number given thereto in all proceedings relating thereto. The issue of a Joint Family Home Certificate shall be recorded against the appropriate entry in the register book of applications.

12. The Registrar shall not be required to issue any Joint Family Home Certificate until all fees and costs payable by the applicant under these regulations have been paid.

13. Every application to the Registrar under paragraph (a), paragraph (b), or paragraph (c) of subsection (1) of section 8 of the Act for cancellation of the registration of a Joint Family Home Certificate shall be in the form numbered 9.

14. Upon the cancellation of the registration of a Joint Family Home Certificate either as to the whole or any part of the land to which the certificate relates, the Registrar shall notify the Assistant Commissioner of Stamp Duties nearest to the Registrar of the cancellation, and of the particular statutory provision under which the cancellation has been made.

15. Where any person applies to the Registrar to cancel the registration of a Joint Family Home Certificate as to part of the land to which the certificate relates or lodges with the Registrar a Court order

* Statutory Regulations 1949, Serial number 1949/84, page 335.

requiring him to cancel the registration of a Joint Family Home Certificate as to part of the land to which the certificate relates, the Registrar, before cancelling the certificate in respect of the part, may require the person who makes the application or lodges the order to apply for a new certificate of title for that part, and the provisions of section 178 of the Land Transfer Act, 1915, shall apply to the application for that certificate.

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

17. The register of applications under the Act and all Joint Family Home Certificates shall be open to inspection by any person during office hours on payment of the prescribed fee.

18. Fees shall be payable to the Registrar in respect of the matters specified in the Second Schedule hereto at the rates specified in that Schedule, and shall be collected by stamps in like manner as other fees are now collected.

19. Subject to the express provisions 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 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 by sending the notice or document by registered post addressed to 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 Supreme Court or a Judge thereof may direct.

20. 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.

21. There shall be payable in respect of all proceedings taken in the Supreme Court or in a Magistrate's Court pursuant to the provisions of the Act like fees to those fixed by the Code of Civil Procedure or the Magistrates' Courts Rules (as the case may be) in respect of similar proceedings.

SCHEDULES

FIRST SCHEDULE

FORMS

Form 1]

APPLICATION TO REGISTER LAND AS A JOINT FAMILY HOME

To The District Land Registrar, District ; or
The Registrar of Deeds, District.

1. I (or We),, of [Address and occupation], being 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], hereby apply to register the said land as a joint family home under the provisions of the Joint Family Homes Act, 1950.

2. The full name, address, and occupation of my wife (or husband) is [To be completed if the title is in the name of one person only].

My (or our) address for service is,
Dated this day of, 19...

Applicant(s).

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

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

Form 2]

DECLARATION TO ACCOMPANY APPLICATION

I (or We), of [Address and occupation], do hereby solemnly and sincerely declare :—

1. That I am (or we are) applying under the Joint Family Homes Act, 1950, to register as a joint family home the following land, namely : [Describe land].

2. That my wife (or husband) and I (or we) at present reside and have our home in a dwellinghouse erected on the said land.

3. That the said dwellinghouse and land are used exclusively for residential purposes and are not used by any person for business purposes or occupied by any person who pays rent or board to my wife (or husband) or me (or to us).

4. That I am (or we are) the registered proprietor(s) of the said land, and that I am (or we are) able at the date hereof to pay all my (or our) debts other than debts charged on the said land without the aid of the said land.

5. That the capital value of the said land within the meaning of the Valuation of Land Act, 1925, does not exceed £4,000, and annexed hereto and marked with the letter " A " is a certificate from the Valuer-General, as to the said capital value of the said land as at the day of, 19.. according to a valuation made specially by him as at that date (or a certificate from the Valuer-General as to the said capital value of the said land as at the day of, 19.. according to the district valuation roll current at the date of the certificate). (Where the Valuer-General's certificate relates to the capital value according to the district valuation roll the declaration shall specify the improvements effected on the land after the date as at which the roll was prepared and the value of those improvements.)

6. That I am not, and my wife (or husband) is not, the owner, or a joint owner, of any other joint family home registered as such under the provisions of the Joint Family Homes Act, 1950 (or neither of us is the owner, &c.).

7. That the place (or several places) where I (or we) have during the twelve months preceding the date hereof 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.

And I (or we) make this solemn declaration conscientiously believing the same to be true and by virtue of the Justices of the Peace Act, 1927.

Declared at, this day of, 19.., before me—

Justice of the Peace ; or Solicitor

Signature(s) :

FIRST SCHEDULE—*continued*

Form 3]

NOTICE UNDER THE JOINT FAMILY HOMES ACT, 1950

NOTICE is hereby given that [*Full name(s), address(es), and occupation(s)*] has (or have), by application number, applied, under the Joint Family Homes Act, 1950, 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 at the District Land Registry Office at 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 this day of, 19..

., District Land Registrar; or
 Registrar of Deeds.
, District.

Form 4]

CAVEAT UNDER THE JOINT FAMILY HOMES ACT, 1950

In the matter of Application Number
 Land Registration District, made by
 under the Joint Family Homes Act, 1950.

TAKE notice that I,, of [*Address and occupation*], claiming to be a creditor of the above named applicant (or claiming the following estate or interest in the land 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

Dated this day of, 19..

., Caveator.

Witness to signature of caveator—

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

To The District Land Registrar; or
 The Registrar of Deeds,

.
 District.

Form 5]

NOTICE OF ENTRY OF CAVEAT

In the matter of Application Number,
 Land Registration District, made by
 under the Joint Family Homes Act, 1950.

TAKE notice that, of [*Address and occupation*], claiming to be a creditor of (or claiming the following estate or interest in the land 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 this day of, 19..

., District Land Registrar; or
 Registrar of Deeds.
, District.

To the applicant(s),

FIRST SCHEDULE—*continued*

Form 6]

NOTICE OF WITHDRAWAL OF CAVEAT

In the matter of Application Number,
 Land Registration District, made by
 under the Joint Family Homes Act, 1950.

TAKE notice that I,, of [Address and occupation], hereby withdraw the caveat lodged by me forbidding the granting of the above application.

Dated this day of, 19..

....., Caveator.

Witness to signature of caveator—

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

To The District Land Registrar or
 The Registrar of Deeds,

.....
 District.

Form 7]

WITHDRAWAL OF APPLICATION

In the matter of Application Number,
 Land Registration District, made by
 under the Joint Family Homes Act, 1950.

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

Dated this day of, 19..

.....
 Applicant(s).

Witnesses to signature(s) of applicant(s)—

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

To The District Land Registrar ; or
 The Registrar of Deeds,

.....
 District.

Form 8]

JOINT FAMILY HOME CERTIFICATE

In the matter of Application Number.....
 Land Registration District, made by
 under the Joint Family Homes Act 1950.

I HEREBY certify that the land, the subject of the above mentioned application being [Describe land], is entitled to be settled as a joint family home under the provisions of the Joint Family Homes Act, 1950 ; and I hereby further certify that the settlor(s) thereof is(are), of [Address and occupation], and that upon the registration of this certificate the said land will become settled as a joint family home on

[Husband's full name, address, and occupation] and

[Wife's full name, address, and occupation].

In witness whereof I have hereunto set my hand and seal of office this day of, 19..

..... District Land Registrar or
 Registrar of Deeds.
 District.

FIRST SCHEDULE—*continued*

Form 9]

APPLICATION FOR CANCELLATION OF REGISTRATION OF JOINT FAMILY HOME CERTIFICATE

I (or We),, 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, 1950, hereby apply for cancellation of the registration of the Joint Family Home Certificate as to that land which is the whole of (or part of the land to which the said Joint Family Home Certificate relates).

Dated this day of, 19..

., Applicant(s).

Witness to signature(s) of Applicant(s)—

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

To The District Land Registrar, or
The Registrar of Deeds,

.
District.

SECOND SCHEDULE

FEES PAYABLE TO REGISTRAR

	£	s.	d.
On lodging application	0	10	0
Advertising fee	2	10	0
Entering caveat	0	10	0
Withdrawal or removal of caveat	0	5	0
Search register book of applications, including search of relevant certificate of title or Deeds index	0	2	0
Certificate under section 6, including any noting of joint vesting	1	10	0
For cancelling registration of certificate under paragraphs (a), (b), or (c) of subsection (1) of section 8, or on the direction of the Court under paragraph (a) of subsection (1) of section 14	0	15	0
For any other cancellation of registration of certificate			No fee.

T. J. SHERRARD,
Clerk of the Executive Council.

Issued under the authority of the Regulations Act, 1936.

Date of notification in *Gazette*: 1st day of March, 1951.

These regulations are administered in the Department of Justice.