



Ontario

Ministry of  
Consumer and  
Commercial  
Relations

Registration  
Division

Property  
Law  
Branch

BULLETIN NO. 86001

DATE: February 10, 1986

TO:  
ALL LAND REGISTRARS

THE FAMILY LAW ACT, 1986

NEW PROCEDURES

The Family Law Act, 1986, which replaces the Family Law Reform Act, comes into force March 1, 1986. The following changes in procedures should be noted by Land Registrars -

1. Part II of the Family Law Act, 1986 which concerns itself with the "MATRIMONIAL HOME" provisions has been amended somewhat so that the statements of compliance regarding spousal status as noted on the back of the forms prescribed under the Land Registration Reform Act, 1984 will no longer be applicable. A disposition or encumbrance pursuant to the Family Law Act, 1986 will require one of the following statements.

1. We are spouses of one another.
2. The person consenting below is my spouse.
3. I am/I am not a spouse.
4. The property transferred (charged, etc.) is not ordinarily occupied by me and my spouse, who is not separated from me, as our family residence.
5. I am separated from my spouse and the property transferred (charged, etc.) was not ordinarily occupied by us at the time of our separation as our family residence.
6. The property is not designated under section 20 of the Family Law Act, 1986 as a matrimonial home by me and my spouse, but there is such a designation of another property as our matrimonial home which has been registered and which has not been cancelled.
7. My spouse has released all rights under Part II of the Family Law Act, 1986 by a separation agreement.

8. This transaction is authorized by court order under section 23 of the Family Law Act, 1986 registered as Instrument No. \_\_\_\_\_ which has not been stayed.
9. The property transferred (charged, etc.) is released from the application of Part II of the Family Law Act, 1986 by court order registered as Instrument No. \_\_\_\_\_ which has not been stayed.

An instrument requiring a statement regarding spousal status presented for registration on or after March 1, 1986, must have one of the following -

- (a) one of the above new statements as per the Family Law Act, 1986; or
- (b) an old statement as per the Family Law Reform Act provided -
  - (i) the instrument is submitted for registration prior to May 1, 1986; or
  - (ii) the instrument is executed before March 1, 1986 and a statement accompanies the instrument indicating that it was irrevocably and unconditionally delivered before March 1, 1986.

An instrument presented for registration before March 1, 1986 must use a statement in accordance with the Family Law Reform Act, as set out on the back of the existing forms prescribed under the Land Registration Reform Act, 1984.

2. Section 20 of the Family Law Act, 1986, in addition to the joint designation of a matrimonial home by both spouses, now authorizes one spouse to designate property as a matrimonial home. A single designation does not, as in the joint designation, release other properties from being the matrimonial home. The single designation only gives notice of a potential spousal interest. In the land titles system, land registrars may accept registrations notwithstanding that a statement in an instrument may conflict with the statement in the single designation. The single designation, however, will continue to be shown on the parcel register until it is removed by the spouse who registered it.

3. Subsection 21(4) of the Family Law Act, 1986 provides that a statement made in accordance with subsection 21(3) by an attorney on the basis of the attorney's personal knowledge is sufficient proof that the property is not the matrimonial home.

The statement by the attorney must still be unequivocal (not based on knowledge and belief), but the attorney need not indicate that he/she is making the statement in his/her personal capacity as presently required in Bulletin 85001. The land titles system will continue to guarantee unequivocal statements made by any person having knowledge of the facts. It should be noted that statements based upon knowledge and belief are still allowed in restricted circumstances. In this regard, see page 5201 of the Land Titles Procedural Guide and Bulletin 85007.

4. Subsection 26(1) of the Family Law Act, 1986 provides as follows:-

"If a spouse dies owning an interest in a matrimonial home as a joint tenant with a third person and not with the other spouse, the joint tenancy shall be deemed to have been severed immediately before the time of death."

As a result of the above noted subsection, the affidavit in support of a survivorship application in the land titles system must have one of the following additional statements by the surviving joint tenant or one of the surviving joint tenants, provided the death occurred on or after March 1, 1986 -

- (a) (Deceased) and (one of surviving joint tenants) were spouses of each other when (deceased) died;
- (b) (Deceased) was not a spouse at the time (deceased) died;
- (c) The property was not a matrimonial home within the meaning of Part II of the Family Law Act, 1986 of (deceased) at the time when (deceased) died.

Bulletin 85001 is superseded.