

NZ-FAMwed02

## **Cohabitation (living together) agreement**

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Date of agreement: [date]

This agreement is made between:

[Name]

of

[address]

and

[Name]

of

[address]

**Background:**

1. We are entering into this agreement so as to record and regulate financial and other matters which will affect us as we live together,
2. This agreement is intended to be a binding legal document. We each acknowledge that we have entered into this agreement voluntarily without any unfair or improper
3. We now [live together / intend shortly to live together] at [address], but this agreement shall
4. We have honestly and frankly told each other about our individual assets and financial positions and have set
5. We both acknowledge and agree that this agreement has been jointly drawn by us and accordingly
6. The parties are de facto partners, as defined by section 2 of the Property (Relationships) Act 1976 (the Act) contemplating entering into a de facto relationship and wish to enter into this agreement for the purpose of contracting out of the Act in terms of section 21 of the Act so as to make

# 1. Definitions

These definitions apply in this agreement:

"Business Assets"	means assets used exclusively in a
"Child / Children"	means a child or children of
"Financial Assets"	means shares, financial investments, pension rights, other rights, intellectual property and all other intangible things. It includes
"Home"	means our principal residence.
"Property"	means personal property, goods and includes real property - land and buildings full details of
"Private Company or Business"	means any or all of: A trade or profession operated as A share in a partnership which A company limited by shares, in which a party owns at 10 %
"Separation"	takes place either when we agree that it takes place or has taken place, or, if we do not agree, it takes place
"Sum Due"	means the sum due by the richer party to the
"Total Assets"	means all Property, Business Assets,

"Total Income" means the average income as declared in a tax return, after payment of tax, over the period of three years immediately preceding the Separation. In calculating Total Income for a woman, no account

[ ].

"Valuer" means a professionally qualified accountant.

## 2. Arrangements for the Home

*[Use one of this first set of choices if the Home is*

*]*

So far as concerns the Home, [and, any other jointly owned ],

:

2.1 We agree that we shall or do hold the beneficial interest in the Home as tenants in common in equal shares and if the form of transfer of the Home to us already provides for ownership by us as beneficial joint tenants, then this agreement now serves as notice from

,

OR

2.2 We agree that we shall or do hold the beneficial interest in the Home as tenants in common in the shares of [nnn]% to [name] and [xxx]% to [name], and if the form of transfer of the Home to us already provides for ownership by us as beneficial joint tenants, then this agreement

,

OR

2.3 We agree that we shall hold the beneficial interest in the Home as tenants in common in the proportions in which we have contributed to the purchase of the Home whether by contribution to the purchase price, payment of mortgage instalments and mortgage-linked endowment premiums, or by way of improvements which

(  
).

2.4 In case of Separation, either we shall agree a sale between ourselves, one to the other, or we shall sell in the open market, using an estate agent in the usual way. If a sale is not agreed, subject to contract, within [ten] weeks of appointing an estate agent, we shall reduce the sale price by [ 5 %].

[ ]% [ ] ( ),

2.5 At Separation, the net proceeds of sale of the Home shall be divided between us

2.6 We shall not make an application to court or otherwise claim to remain in residence, unless a Child

***[Use one of this second set of choices if the Home  
]***

2.7 The parties agree that from the date of entering into this agreement, the holder of the legal title in the home holds it on trust for both of us in equal shares and that we each have all the rights of a 50% co-owner. [

].

OR

2.8 [Enter name] is the sole beneficial owner of the Home. Upon a sale, he / she agrees to pay [other name] a sum of money equal to half the increase in value from the date of entering into this

[ ] [ ]

OR

2.9 [Enter name] is the sole beneficial owner of the Home and regardless of any contribution to the purchase maintenance or improvement of the Home by [name], [name]

2.10 At Separation, the net proceeds of

2.11 We each agree that we shall not make an

### 3. The Valuer

3.1 The Valuer shall be jointly appointed. If we do not agree who shall be valuer within [four]

( )

3.2 We are jointly

3.3 The Valuer may appoint others to ( ).

### 4. Business property

So far as either of us, now or in future, owns a Private Company or Business, the assets, ,

### 5. Separate ownership of Total Assets

Each of us shall remain sole owner of our respective Total

## 6. Personal Property

- 6.1 "Personal Property" means all loose physical  
[ / ]
- 6.2 Personal Property owned by one party [\[before entering](#)  
/ ]
- 6.3 Personal Property acquired by either of us after the date of this agreement shall continue  
[ / ]
- 6.4 Personal Property acquired jointly by

## 7. Banking and cash arrangements

- 7.1 We will maintain a joint bank ("The Joint Account"). We will deposit into this account  
[ ]
- 7.2 The money in the Joint Account shall belong to us  
[ ]
- 7.3 This paragraph does not entitle either party to any

## 8. Living expenses

- 8.1 "Living expenses" means:
- 8.1.1 [maintenance of the Children;](#)
  - 8.1.2 mortgage payments or rent;
  - 8.1.3 other agreed joint financial obligations;





## 10 Children arrangements

*[Delete this and the following*

*].*

10.1 We accept that if any child or children is born to both of us,

*There follows two sets of*

10.2 The Home shall not

*OR*

10.3 The Home shall be sold within six months and the proceeds of sale used to buy a [smaller] house suitable

*Second set of alternatives*

10.4 The Children

10.5 We shall

10.6 If reasonably possible, all Children shall live in

12,  
6

10.7 There shall be no presumption that

10.8 The cost of maintaining the Child

10.9 The amount of money payable by

## 11 Additional Children arrangements

11.1 We accept that we have a full and joint responsibility for

11.2 We shall share legal custody

11.3 We agree that our Children shall be [ / / / / ]

OR

11.4 We agree that our Children shall be brought

11.5 Neither of us may take any Child out of New Zealand without the permission in writing

## 12 Termination of this agreement

This agreement

:

12.1 the death or marriage of either of us;

12.2 our Separation for [ ] [ ] ;

12.3 when one of us has given to the  
[ ] ;

12.4 when one party acts in a way /

12.5 If a Child or Children is living in the Home at the time ,

### 13 After termination

13.1 The Home will be sold and

OR

13.2 The party who does not own any interest in the Home  
[ ] /

OR

13.3 The lease on

13.4 The parties will immediately

13.5 The parties will immediately and ,

13.6 All obligations under this agreement

### 14 Division of Total Assets on Separation

In the , :

14.1 The Valuer shall be instructed to

14.2 In making the valuation, [name's] [ 50 ] %

14.3 Assets acquired

14.4 Neither of us shall be entitled to claim against

14.5 So far as concerns Total Assets, the Total Assets of each party shall be calculated and if the

[ 50 ] %

14.6 If the Total Assets of the richer party exceeds the Total Assets of the poorer party by more than [ 50 ] %,

14.7 The sum shall be calculated as a percentage of the

<b>Time lived together</b>	<b>% of difference to be transferred</b>
Under five years	5
Five to ten years	10
Ten to fifteen years	15
Fifteen to twenty years	20
Over twenty years	25

## 15 Basic maintenance of a party

15.1

15.2

15.3

[ 5 ]

15.4

%

[ 20 ]

15.5

[ 20 ] %,

15.6

15.7

15.8

**Time lived together**

**% of difference**

**Duration of payments  
to be paid (Years)**

Under five years

5

1

Five to ten years	10	4
Ten to fifteen years	15	7
Fifteen to twenty years	20	10
Over twenty years	25	For the joint lives

15.9 [redacted] / [redacted] ,  
[ 20 ] % ,

## 16 Maintenance for Children

[redacted] , [redacted] ] .

[redacted] , [redacted] :

16.1 [redacted] ,  
[redacted] / [redacted] .  
[ 18 ]

16.2 [redacted] [redacted] ] .

16.3 [redacted] [redacted] [redacted] ]  
[ 20 % ]

[redacted] \$ [redacted] .

16.4 [redacted] [redacted] [redacted] ]  
[ 10 % ]

[redacted] \$ [redacted] .

16.5 [redacted] ]

\$ [     ].

16.6

## **17 Death of a party**

17.1

17.2

17.3

17.4

## **18 Confidential information**

18.1

18.2



## 19 Miscellaneous matters

19.1

19.2

19.3

It shall be deemed to have been delivered:

;

: 72 ;

- : 24

.[

].

19.4

19.5

19.6

19.7

19.8 ( ) -

19.9 -

19.10

19.11 ,

**Signed by the parties**

Signed by [\[Print name of Party\]](#)

In the presence of

Witness:      Signature:

[\[Name of witness\]](#), Solicitor:

Address of solicitor:

[ , [ ] ,  
[ ]

.....

[\[Name of Solicitor\]](#)



## Schedule 1 - Details of the Property of **[name of party]**

*[Enter list of goods, moveable and ]*

## Schedule 2 – Details of the Property of **[name of other party]**

*[Enter list of goods, moveable and*

*.]*

# Explanatory Notes

## Cohabitation (living together) agreement

### General notes

- 1 The Property Relationship Act 1976 provides legal rules on how property should be divided when a marriage, civil union, or defacto relationship ends. However the Act authorises the parties to contract
- 2 The special requirements that must be met for contracting out agreement to
  - must be in writing;
  - both parties must receive independent legal advice;
  - signatures need to be certified by a lawyer;
  - the lawyer must certify that, before that party signed the agreement, the lawyer explained to that party the
- 3 The purpose of an agreement such as this is as much to remind the parties what should be in it as to cement their rights in the event of issues arising. It is therefore important to take a dismal and pessimistic view at
- 4 It is impossible to cover all the arrangements a couple might wish to make. We have considered the most likely wishes of the parties but cannot have imagined every possibility. It is most important that you treat the document
- 5 If this agreement were to be litigated, the judge would want to be sure that both parties were aware of what they were entering into at the time they signed it. If you do not take formal legal advice, it may be necessary to show that the issues were fully discussed and agreed. It may also
- 6 We have provided possible figures (usually money) to enter in many places. It is entirely up to you what you put in. A proposal suitable for wealthy people in middle years
- 7 Gifts and kindness: the agreement sets out specific fallback provisions. There is nothing to stop one party from taking it upon him / herself to make payments for the other of them. But

- 8 Finally, remember that your circumstances will change, probably by more than you may now think possible. So Net Lawman advice is to be very specific only on matters that are important immediately, and take a broader view on events in

## Paragraph specific notes:

### 1. Definitions

You may change the terms as suitable to your agreement. We may not have been able to provide you with defined terms which are precisely suitable to your requirement. By all means use the search/replace function in your word processor to change them. But if you do change the defined word, make sure it applies to every use of it in the document.

Remember too, that when a word or phrase is defined, the defined meaning when capitalised, takes precedence over the common meaning of that word or phrase.

You should first decide on the contents of the document, then return to check what definitions are needed and whether they really fit the text you have left in place.

### 2. Arrangements for the Home

If you rent, it may be possible to delete this. We

If you own a house now, this is your opportunity to decide what happens if one of

We have provided a number of alternatives for home ownership and division. The first thing to consider is the basic legal proposition that where ( )

The "trust" may be for them as tenants in common or joint tenants. The difference is as follows: when a joint tenant dies, his share passes automatically to the other joint tenant with no "legal"

Tenants in common can own property in any shares they like.

Whenever two or more people jointly own property there is a legal presumption that any owner can demand a

If you are not interested in child arrangement, 2 . 6 2 .  
11 .

### 3. **The Valuer**

The Valuer is needed as a neutral third party to provide figures which one

### 4. **Business property**

We think this is the right provision when a couple first

Judges find it difficult enough to decide what is fair at the time of a divorce, so attempting to do so many years in advance of a separation is impossible. But

Reference may be made to a specific business or company when arrangements are under consideration. For example, it may be appropriate for one party also to resign as a director of any company

We have suggested that business assets are put in at less than full value because they are not usually encashable

(  
).

### 5. **Separate ownership of Total Assets**



We have no comment.

**6. Personal Property**

This is a simple way to record who owns what. Include only those items where an

**7. Banking and cash arrangements**

Remember that if you are named on an agreement you are jointly liable.

**8. Living expenses**

A

**9. Finance and borrowing arrangements**

Common sense

**10. Children arrangements**

This and the following paragraph are optional depending

You may have children unexpectedly, so we advise that you consider this paragraph on the basis that children do "arrive". The law with regard to the welfare of children

**11. Additional Children arrangements**

More important points. Delete if not required.

**12. Termination of this agreement**

In any event, either party can apply to

12.5,

### **13. After termination**

This could be a terrible time. The better you cover it

### **14. Division of Total Assets on Separation**

We have provided many options and ways to minimise the misfortune of the less wealthy

( )

This paragraph is a series of

### **15. Basic maintenance of a party**

The word "maintenance" has connotations of court and

Delete 15.3,

### **16. Maintenance for Children**

If you

You will probably agree that if any problem were to arise, the court will be interfering in

"

### **17. Death of a party**

It is therefore most important that the

,

Most importantly,

## **18. Confidential information**

A confidentiality provision is rare in a family law document.

## **19. Miscellaneous matters**

A number of

These are just as valid in

**End of notes**