

**2002**

**THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL  
TERRITORY**

**FIRST HOME OWNER GRANT AMENDMENT BILL 2002**

**EXPLANATORY MEMORANDUM**

**Circulated by the authority of the Treasurer**

**Ted Quinlan MLA**

## First Home Owner Grant Amendment Bill 2002

### Summary

The ACT is a party to the *Intergovernmental Agreement on the Reform of Commonwealth-State Financial Relations*. This agreement requires the ACT to administer the First Home Owners Scheme on the Commonwealth's behalf, which includes compliance activities. The *First Home Owner Grant Act 2000* provides the legislative powers for the Commissioner for ACT Revenue to administer the First Home Owners Scheme.

The First Home Owners Scheme has two components, a \$7,000 grant for first homebuyers and an additional \$7,000 grant for first homebuyers purchasing a new home. That additional grant initially applied to eligible contracts to buy or build new homes entered into from 9 March 2001 to 31 December 2001 inclusive.

On 9 October 2001 the Prime Minister announced that a re-elected Coalition Government would extend the additional grant to 30 June 2002. However the additional grant amount would be phased down to \$3,000 (instead of \$7,000) for eligible contracts to buy or build a new home entered into from 1 January 2002 to 30 June 2002 inclusive.

After the election, the Prime Minister also announced more liberal commencement and completion requirements. These requirements apply to contracts entered into on or after the date of the Prime Minister's announcement on 9 October 2001. The new commencement and completion requirements for the additional grant are that:

- the construction of the home must commence within 26 weeks of entering into the contract (instead of 16 weeks under the original scheme); and
- the contract must specify a completion date within 18 months of the date of commencement (instead of 12 months under the original scheme).

Details of the additional grants were supplied by the Commonwealth in a letter dated 17 December 2001 which enclosed a fact sheet.

This Bill amends the FHOG Act in accordance with the fact sheet. The Bill ensures that the additional grant only applies to purchases, or to the construction of, new homes not previously occupied or sold, where the conditions set out in the fact sheet are met.

The amendments contained in this Bill will ensure that all legislative requirements currently in place for the FHOG Act will also apply to eligible recipients of the additional grant. These measures are consistent with the Commonwealth's request that each jurisdiction –

- put into place compliance measures to prevent fraudulent claims for the additional grant; and
- have the administrative and investigative powers required to properly administer the additional grant and prevent abuse.

**Revenue/Cost Implications**

The cost will be funded by the Commonwealth. The funding for the additional new homeowners grant will be sought through a Section 19B instrument of the *Financial Management Act 1996*. This section specifically deals with new Specific Purpose Payments from the Commonwealth, which is how the additional portion of the grant will be paid to the ACT. The third appropriation will be utilised to increase funding for the remainder of the increase to FHOG, which is due to increased demand for the \$7,000 base grant.

Details of the Bill are attached.

## Details of the First Home Owner Grant Amendment Bill 2002

### Clauses 1, 2 and 3

These are mechanical clauses that state the name of the act, define the commencement date and specify the amended act.

### Clause 4 Section 13A

This clause substitutes section 13A and has a heading “Special eligible transactions” and makes the following definitions:

Subject to section 13A(6), sections 13A(1) to 13A(5) define a *special eligible transaction* as:

1. a contract for the purchase of a home (other than a contract for an ‘off-the-plan’ purchase) if—
  - (a) the home is a new home; and
  - (b) the contract is made after 8 March 2001 and before 1 July 2002.
2. a comprehensive home building contract for a new home if—
  - (a) the contract is made after 8 March 2001 and before 9 October 2001; and
  - (b) the building work starts within 16 weeks after the contract is made, or any longer period the commissioner may allow for delay caused by circumstances beyond the control of the parties; and
  - (c) the contract states that the eligible transaction must be completed within 12 months after the building work is started or, in any other case, the eligible transaction is completed within 12 months after the building work is started.
3. a comprehensive home building contract for a new home if—
  - (a) the contract is made after 8 October 2001 and before 1 July 2002; and
  - (b) the building work starts within 26 weeks after the contract is made, or any longer period the commissioner may allow for delay caused by circumstances beyond the control of the parties; and
  - (d) the contract states that the eligible transaction must be completed within 18 months after the building work is started or, in any other case, the eligible transaction is completed within 18 months after the building work is started.
4. the building of a new home by an owner-builder if—
  - (a) the commencement date of the eligible transaction is after 8 March 2001 and before 9 October 2001 and the transaction is completed before 1 May 2003; or
  - (b) the commencement date of the eligible transaction is after 8 October 2001 and before 1 January 2002 and the transaction is completed before 1 January 2004; or
  - (c) the commencement date of the eligible transaction is after 31 December 2001 and before 1 July 2002 and the transaction is completed before 1 July 2004.

5. a contract for an ‘off-the-plan’ purchase of a new home if—
  - (a) the contract is made after 8 March 2001 and before 9 October 2001 and either—
    - (i) the contract states that the eligible transaction must be completed before 1 May 2003; or
    - (ii) in any other case—the eligible transaction is completed before 1 May 2003; or
  - (b) the contract is made after 8 October 2001 and before 1 January 2002 and either—
    - (i) the contract states that the eligible transaction must be completed before 1 January 2004; or
    - (ii) in any other case—the eligible transaction is completed before 1 January 2004; or
  - (c) the contract is made after 31 December 2001 and before 1 July 2002 and either—
    - (i) the contract states that the eligible transaction must be completed before 1 July 2004; or
    - (ii) in any other case—the eligible transaction is completed before 1 July 2004.

If a contract does not state a date, or states a date that is beyond the specified completion dates and where all other conditions are met, it is the policy intention to pay grants where building works are completed within the specified dates. For example for a contract to build a home after 31 December 2001 and before 1 July 2002, if the contract states completion within 20 months and the building was completed within 18 months, then the additional grant would be payable.

Section 13A(6) ensures that an eligible transaction that is a contract is not a special eligible transaction if the commissioner is satisfied that the contract replaces a contract made before 9 March 2001 and the replaced contract was:

- (a) a contract for the purchase of the same home; or
- (b) a comprehensive home building contract to build the same or a substantially similar home.

Section 13A(7) specifies that for comprehensive home building contracts, building work starts when laying the foundations for the home begins.

Sections 13A(8) to 13A(10) makes the following definitions for section 13A:

***contract for an ‘off-the-plan’ purchase***, of a new home, means a contract for the purchase of the home on a proposed lot in an unregistered plan of a subdivision of land.

***new home*** means a home that has not been previously occupied or sold as a place of residence, and includes a substantially renovated home and a home built to replace demolished premises. However, it is the policy intention that an illegal occupation of premises (such as squatting) would not exclude it from being a new home for the purposes of the additional grant.

***a substantially renovated home*** is where:

- (a) the sale of the home is, under the Commonwealth's *A New Tax System (Goods and Services Tax) Act 1999* (GST Act), a taxable supply as a sale of new residential premises within the meaning of section 40-75 (1) (b) (Meaning of *new residential premises*); and
- (b) the home, as renovated, has not been previously occupied or sold as a place of residence.

Section 40-75(1) of the GST Act states:

- (1) Residential premises are new residential premises if they:
  - (a) have not previously been sold as residential premises and have not previously been the subject of a long-term lease; or
  - (b) have been created through substantial renovations of a building; or
  - (c) have been built, or contain a building that has been built, to replace demolished premises on the same land.

*a home built to replace demolished premises* is where:

- (a) except for an eligible transaction that is a comprehensive home building contract for a home or the building of a home by an owner-builder—the sale of the home is, under the GST Act, a taxable supply as a sale of new residential premises within the meaning of section 40-75 (1) (c); and
- (b) for an eligible transaction that is a comprehensive home building contract for a home or the building of a home by an owner-builder—the home is, under the GST Act, new residential premises within the meaning of section 40-75 (1) (c); and
- (c) the home, as built to replace the demolished premises, has not previously been occupied or sold as a place of residence; and
- (d) the owner of the home did not occupy the demolished premises as a place of residence before they were demolished.

Section 13A(11) ensures that section 13A is a law to which the *Legislation Act 2001*, section 88 (Repeal does not end transitional or validating effect etc) applies.

Section 13A(12) states that section 13A expires on 1 July 2004. This does not affect an existing right, privilege or liability acquired, accrued or incurred under the law.

#### **Clause 5      Amount of grant**

This clause omits the numbering “(1)” in Section 18 to allow for consequential amendments by clause 7.

#### **Clause 6      Section 18**

This clause omit subsections 18(2) to 18(4) to allow for consequential amendments by clause 7.

#### **Clause 7      New section 18A**

This clause inserts a new section 18A, which has the title “**Amount of grant for special eligible transactions**”, which states:

- (1) The amount of the first home owner grant for a special eligible transaction is the amount payable under this section instead of the amount payable under section 18.
- (2) If the commencement date of the special eligible transaction is after 8 March 2001 and before 1 January 2002, the amount payable is the lesser of the following:
  - (a) the consideration for the transaction;
  - (b) \$14 000.
- (3) If the commencement date of the special eligible transaction is after 31 December 2001 and before 1 July 2002, the amount payable is the lesser of the following:
  - (a) the consideration for the transaction;
  - (b) \$10 000.
- (4) In this section:  
*special eligible transaction*—see section 13A.
- (5) This section is a law to which the *Legislation Act 2001*, section 88 (Repeal does not end transitional or validating effect etc) applies.
- (6) This section expires on 1 July 2004.

#### **Clause 8      New section 57**

This clause inserts a new section 57, which has the title “**Validation for payment of increased grants**” and states:

- (1) The payment of an amount as a first home owner grant before the commencement of this section, and anything done under this Act or the Taxation Administration Act 1999, is validated to the extent that it would have been valid if this Act (as amended by the First Home Owner Grant Amendment Act 2002) had been in force when the payment was made or the thing was done.
- (2) This section expires 1 month after it commences.