



Australian Capital Territory

First Home Owner Grant Act 2000

A2000-23

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Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *First Home Owner Grant Act 2000* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 22 September 2009. It also includes any amendment, repeal or expiry affecting the republished law to 22 September 2009.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

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Australian Capital Territory

First Home Owner Grant Act 2000

An Act to encourage and assist home ownership, and to offset the effect of the GST on the acquisition of a first home, by establishing a scheme for the payment of grants to first home owners

Part 1 Preliminary

1 Name of Act

This Act is the *First Home Owner Grant Act 2000*.

2 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain words and expressions used in this Act, and includes references (*signpost definitions*) to other words and expressions defined elsewhere in this Act.

For example, the signpost definition ‘*identity card*—see the *Taxation Administration Act 1999*, dictionary.’ means that the term ‘identity card’ is defined in that dictionary and the definition applies to this Act.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

3 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

3A Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

Note 1 Criminal Code

The Criminal Code, ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

Note 2 Penalty units

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

4 Homes

A *home* is a building (affixed to land) that—

- (a) may lawfully be used as a place of residence; and
- (b) is, in the commissioner's opinion, a suitable building for use as a place of residence.

5 Ownership of land and homes

- (1) A person is an *owner* of a home or a *home owner* if the person has a relevant interest in land on which a home is built.
- (2) Each of the following is a *relevant interest* in land:
 - (a) a leasehold interest in the land granted by the Commonwealth;
 - (b) a life estate in the land approved by the commissioner;
 - (c) a licence or right of occupancy granted by the Commonwealth that gives, in the commissioner's opinion, the licensee or the holder of the right reasonable security of tenure;

- (d) an interest in a company's shares if the commissioner is satisfied that—
 - (i) the interest entitles the holder of the interest to exclusive occupation of a particular home owned by the company; and
 - (ii) the value of the shares is not less than the value of the company's interest in the home.
- (3) However—
 - (a) an interest is not a *relevant interest* in land at a particular time unless the holder of the interest has, or will have within 12 months after that time (or a longer time allowed by the commissioner), a right to immediate occupation of the land; and
 - (b) an interest is not a *relevant interest* in land in the hands of a person who holds it subject to a trust; and
 - (c) an equitable interest is not a *relevant interest* in land unless it is the interest of a person under a legal disability for whom a guardian holds the interest on trust.
- (4) Despite subsections (2) and (3), the regulations may provide for recognition of an interest (a *noncomplying interest*) as a *relevant interest* in land—
 - (a) even though the interest may not comply with the subsections; and
 - (b) even though the interest may not be recognised at law or in equity as an interest in land.
- (5) If a first home owner grant is to be paid because of the recognition of a noncomplying interest as a relevant interest in land, the commissioner may impose appropriate conditions on the payment of the grant to ensure its recovery if criteria prescribed under the regulations about future conduct or events are not satisfied.

6 Partner of applicant

- (1) A person is the *partner* of the applicant if the person is the applicant's domestic partner.

Note For the meaning of *domestic partner*, see Legislation Act, s 169.

- (2) However, if the applicant is married or in a civil partnership, the applicant's spouse or civil partner is not to be regarded as the applicant's partner if the commissioner is satisfied that, at the time of deciding the application for a first home owner grant, the applicant—
- (a) is not living with the person; and
 - (b) has no intention of resuming living with the person.

Part 2 First home owner grant

Division 2.1 Entitlement to grant

7 Entitlement to grant

- (1) A first home owner grant is payable on an application under this Act if—
 - (a) the applicant or, if there are 2 or more of them, each of the applicants complies with the eligibility criteria; and
 - (b) the transaction for which the grant is sought—
 - (i) is an eligible transaction; and
 - (ii) has been completed.
- (2) Despite subsection (1) (a), an applicant need not comply with the eligibility criteria to the extent the applicant is exempted from compliance under this Act.
- (3) Only 1 first home owner grant is payable for the same eligible transaction.

Division 2.2 Eligibility criteria for applicants

8 Criterion 1—Applicant to be an individual

An applicant for a first home owner grant must be an individual.

8A Criterion 1A—Applicant to be at least 18 years old

- (1) An applicant for a first home owner grant must be at least 18 years old.
- (2) However, if the commissioner is satisfied there are good reasons to do so, the commissioner may exempt the applicant from the requirement to be at least 18 years old.

9 Criterion 2—Applicant to be Australian citizen or permanent resident

- (1) An applicant for a first home owner grant must be an Australian citizen or permanent resident.
- (2) However, if an application is made by joint applicants and 1 of the applicants is an Australian citizen or permanent resident, it is not necessary for the other or others to be Australian citizens or permanent residents.

10 Criterion 3—Applicant (or applicant’s partner) must not have received an earlier grant

- (1) An applicant is ineligible if—
 - (a) the applicant or the applicant’s partner has been a party to an earlier application under this Act or a corresponding law; and
 - (b) a grant was paid on the application.
- (2) However, the applicant is not ineligible if the grant was paid but later paid back under the conditions on which the grant was made.
- (3) An applicant is also ineligible if the applicant or the applicant’s partner—
 - (a) could have successfully applied for a first home owner grant under this Act or a corresponding law in relation to an earlier transaction to which he or she was a party but did not do so; or
 - (b) could, assuming that he or she had then been an Australian citizen or permanent resident, have successfully applied for a first home owner grant under this Act or a corresponding law in relation to an earlier transaction to which he or she was a party.

11 Criterion 4—Applicant (or applicant’s partner) must not have had relevant interest in residential property

- (1) An applicant is ineligible if the applicant or the applicant’s partner has, before 1 July 2000, held—
 - (a) a relevant interest in residential property in the ACT; or
 - (b) an interest in residential property in a State that is a relevant interest under the corresponding law of the State.
- (2) In working out for section (1) whether an applicant held a relevant interest (within the meaning of this Act or a corresponding law) in residential property at a particular time, any deferment of the applicant’s right of occupation (because the property was subject to a lease) is to be disregarded.
- (3) An applicant is also ineligible if, before the commencement date of the eligible transaction to which the application relates, the applicant or the applicant’s partner—
 - (a) held a relevant interest in residential property in the ACT or an interest in residential property in a State that is a relevant interest under the corresponding law of the State; and
 - (b) occupied the property as a place of residence.
- (4) However, for subsection (3), the applicant or the applicant’s partner is taken not to have used the property as the residence of the applicant or the applicant’s partner if—
 - (a) the property was the subject of an earlier application under this Act by the applicant; and
 - (b) a first home owner grant was paid under the earlier application; and
 - (c) the applicant repaid the grant because of a failure to comply with section 12 in relation to the earlier application.

- (5) In this section:

residential property—land in Australia is *residential property* at a particular time if there is, at that time, a building on the land lawfully occupied as a place of residence or suitable for occupation as a place of residence.

12 Criterion 5—Residence requirements

- (1) An applicant for a first home owner grant must occupy the home to which the application relates as the applicant's principal place of residence for a continuous period of at least 6 months.
- (2) However, if the commissioner is satisfied there are good reasons to do so, the commissioner may—
- (a) approve a shorter period; or
 - (b) exempt the applicant from the requirement to comply with subsection (1).
- (3) The period of occupation required under subsection (1), or the shorter period approved under subsection (2) (a), must start within 1 year after completion of the eligible transaction to which the application relates or a longer period approved by the commissioner.
- (4) The commissioner may exempt the applicant (the *noncomplying applicant*) from the requirement to comply with subsection (3) if—
- (a) the applicant is 1 of 2 or more joint applicants for a first home owner grant; and
 - (b) at least 1 of the applicants complies with the requirement; and
 - (c) there are, in the commissioner's opinion, good reasons to exempt the noncomplying applicant from the requirement.

Division 2.3 Eligible transactions

13 Meaning of *eligible transaction* etc

- (1) An *eligible transaction* is—
 - (a) a contract for the purchase of a home in the ACT made on or after 1 July 2000; or
 - (b) a comprehensive home building contract made on or after 1 July 2000 by the owner of land in the ACT, or a person who will on completion of the contract be the owner of land in the ACT, to have a home built on the land; or
 - (c) the building of a home in the ACT by an owner-builder if the building work begins on or after 1 July 2000.
- (2) However, a contract is not an *eligible transaction* if the commissioner is of the opinion that it forms part of a scheme to circumvent limitations on, or requirements affecting, eligibility or entitlement to a first home owner grant and the commissioner will, unless satisfied to the contrary, presume the existence of such a scheme, if—
 - (a) for a contract to purchase a home—the purchaser had an option to purchase the home granted before 1 July 2000 or the vendor had an option to require the purchaser to purchase the home granted before that date; or
 - (b) for a comprehensive building contract—either party had a right or option granted before 1 July 2000 to require the other to enter into the contract.
- (3) The *commencement date* of an eligible transaction is—
 - (a) for a contract—the date when the contract is made; or
 - (b) for the building of a home by an owner-builder—
 - (i) the date when laying the foundations for the home begins;
or

- (ii) another date the commissioner considers appropriate in the circumstances of the case.
 - (4) Subject to any qualifications prescribed under the regulations, an eligible transaction is **completed** when—
 - (a) for a contract for the purchase of a home—
 - (i) the purchaser becomes entitled to possession of the home under the contract; and
 - (ii) if the purchaser is to obtain a registered title to the land on which the home is situated—the necessary steps to obtain registration of the purchaser’s title have been taken; or
 - (b) for a contract to have a home built—the building is ready for occupation as a place of residence; or
 - (c) for the building of a home by an owner-builder—the building is ready for occupation as a place of residence.
- Note* For when certain transactions related to moveable buildings are completed, see s (5).
- (5) If a person purchases a moveable building and intends to use it as a place of residence on land in which the person has a relevant interest but on which it is not situated at the time of purchase—
 - (a) this Act applies as if the person were an owner-builder building a home on the land; and
 - (b) the commencement date of the transaction is taken to be the date of the contract to purchase the moveable building; and
 - (c) the transaction is taken to be completed when the moveable building is ready for occupation as a place of residence on land in which the purchaser has a relevant interest.
 - (6) The **consideration** for an eligible transaction is—
 - (a) for a contract for the purchase of a home—the consideration for the purchase; or

- (b) for a comprehensive home building contract—the total consideration payable for the building work; or
- (c) for the building of a home by an owner-builder—the actual costs to the owner of carrying out the work (excluding any allowance for the owner-builder's own labour).

(7) In this section:

comprehensive home building contract means a contract under which a builder undertakes to build a home on land from the inception of the building work to the point where the home is ready for occupation and if, for any reason, the work to be carried out under such a contract is not completed, includes any further contract under which the work is to be completed.

contract for the purchase of a home means a contract for the acquisition of a relevant interest in land on which a home is built.

option to purchase includes a right of pre-emption or a right of first refusal.

owner-builder means an owner of land who builds a home, or has a home built, on the land without entering into a comprehensive home building contract.

Note For when a person is taken to be an owner-builder in relation to a moveable building, see s (5).

Division 2.4 Application for grant

14 Application for grant

- (1) An application for a first home owner grant is to be made to the commissioner.

Note 1 If a form is approved under s 55 (Approved forms) for an application, the form must be used.

Note 2 For how documents may be given, see Legislation Act, pt 19.5.

- (2) An applicant must provide the commissioner with any information the commissioner requires to decide the application.
- (3) Information provided by an applicant in or in relation to an application must, if the commissioner so requires, be verified by statutory declaration or supported by other evidence required by the commissioner.
- (4) An application may only be made within a period (the *application period*)—
 - (a) beginning on the commencement date of the eligible transaction to which the application relates; and
 - (b) ending 1 year after the completion of the eligible transaction to which the application relates.
- (5) However, the commissioner has a discretion to allow an application before or after the application period.
- (6) An applicant may, with the commissioner's consent, amend an application.

15 All interested persons to join in application

- (1) All interested persons must be applicants.
- (2) An *interested person* is a person who is, or will be on completion of the eligible transaction to which the application relates, an owner of the relevant home except such a person who is excluded from the application of this section under the regulations.

16 Application on behalf of person under legal disability

- (1) An application may be made on behalf of a person under a legal disability by a guardian.
- (2) For the purpose of deciding eligibility, the person under the legal disability is to be regarded as the applicant.

Division 2.5 Decision on application

17 Commissioner to decide applications

- (1) If the commissioner is satisfied that a first home owner grant is payable on an application, the commissioner must authorise the payment of the grant.
- (2) The commissioner may authorise the payment of a first home owner grant before completion of the eligible transaction if satisfied that—
 - (a) there are good reasons for doing so; and
 - (b) the interests of the Territory can be adequately protected by conditions requiring repayment of the grant if the transaction is not completed within a reasonable time.

18 Amount of grant

- (1) The amount of a first home owner grant is the lesser of the following:
 - (a) the consideration for the eligible transaction;
 - (b) \$7 000.
- (2) However, this section does not apply if section 24B (Amount of grant—certain eligible transactions) applies.
- (3) Subsection (2) is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.
- (4) Subsections (2) and (3) and this subsection expire on 1 July 2013.

19 Payment of grant

- (1) A first home owner grant is to be paid by electronic funds transfer, by cheque or in any other way the commissioner considers appropriate.

- (2) A first home owner grant is to be paid—
- (a) to the applicant; or
 - (b) to someone else to whom the applicant directs in writing that the grant be paid.

20 Payment in anticipation of compliance with residence requirements

- (1) The commissioner may authorise payment of a first home owner grant in anticipation of compliance with the residence requirements if the commissioner is satisfied that each applicant intends to comply with the residence requirements.
- (2) If a first home owner grant is paid in anticipation of compliance with the residence requirements, the payment is made on condition that, if the residence requirements are not complied with, the applicant must within 14 days after the relevant date—
- (a) give written notice of that fact to the commissioner; and
 - (b) repay the amount of the grant.
- (3) The *relevant date* is the earlier of the following:
- (a) the end of the period allowed for compliance with the residence requirements;
 - (b) the date it first becomes apparent that the residence requirements will not be complied with during the period allowed for compliance.
- (4) If a first home owner grant is paid to a person on the condition mentioned in subsection (2), the person must comply with the condition.

Maximum penalty: 50 penalty units.

- (5) An offence against this section is a strict liability offence.

21 Conditions generally

- (1) The commissioner may authorise the payment of a first home owner grant on conditions the commissioner considers appropriate.
- (2) A condition imposed by the commissioner (under this section or any other provision of this Act) may require a person on whose application the first home owner grant is paid—
 - (a) to give notice of noncompliance with the condition within a period stated in the condition; and
 - (b) to repay the grant or part of the grant within a period stated in the condition.
- (3) For a joint application, each applicant is individually liable to comply with a requirement under subsection (2) but compliance by any of them is to be regarded as compliance by all.
- (4) If a first home owner grant is paid to a person on a condition imposed by the commissioner under this section or another provision of this Act, the person must comply with the condition.

Maximum penalty: 50 penalty units.

- (5) An offence against this section is a strict liability offence.

22 Death of applicant

- (1) An application for a first home owner grant does not lapse because an applicant dies before the application is decided.
- (2) If an applicant dies before the application is decided, the following provisions apply:
 - (a) if the deceased applicant was one of 2 or more applicants and 1 or more applicants survive—the application is to be dealt with as if the surviving applicants were the sole applicants;
 - (b) in any other case—a first home owner grant, if payable on the application, is to be paid to the estate of the deceased applicant.

- (3) A deceased applicant for a first home owner grant is taken to have complied with section 12 (Criterion 5—Residence requirements) if—
- (a) the applicant had not, when the applicant died, complied with that section; and
 - (b) the commissioner is satisfied the applicant intended to comply with that section.

23 Power to correct decision

- (1) If the commissioner decides an application, and is later satisfied (independently of an objection under this Act) that the decision is incorrect, the commissioner may vary or reverse the decision.
- (2) A decision cannot be varied or reversed under this section more than 5 years after it was made.

24 Notification of decision

- (1) If the commissioner decides an application (or decides to vary or reverse an earlier decision on an application), the commissioner must give the applicant notice of the decision.
- (2) If the decision is to authorise the payment of a first home owner grant without conditions, the payment of the grant is sufficient notice of the decision.
- (3) If the decision is to refuse an application, or to vary or reverse an earlier decision on an application, the commissioner must state in the notice the reasons for the decision.

Division 2.5A Amount of grant—certain eligible transactions

24A Definitions—div 2.5A

- (1) In this division:

comprehensive home building contract—see section 13 (7).

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.

contract for the purchase of a home—see section 13 (7).

GST Act means the *A New Tax System (Goods and Services Tax) Act 1999* (Cwlth).

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.

owner-builder—see section 13 (7).

- (2) For this division, a home is a *substantially renovated home* if—

- (a) the sale of the home is, under the GST Act, a taxable supply as a sale of new residential premises within the meaning of that Act, section 40-75 (1) (b) (Meaning of *new residential premises*); and
- (b) the home, as renovated, has not previously been occupied or sold as a place of residence.

- (3) For this division, a home is a *home built to replace demolished premises* if—

- (a) for an eligible transaction that is a contract for the purchase of a home—the sale of the home is, under the GST Act, a taxable supply as a sale of new residential premises within the meaning of that Act, 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 that Act, 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.

24B Amount of grant—certain eligible transactions

- (1) The amount of the first home owner grant in relation to an eligible transaction is \$7 000 plus—
 - (a) if the eligible transaction qualifies for the first home owner boost for new homes under section 24C—\$14 000; or
 - (b) if the eligible transaction qualifies for the first home owner boost for established homes under section 24D—\$7 000.
- (2) However, if the consideration for the eligible transaction is less than or equal to the amount of the first home owner grant in relation to the transaction, the maximum amount of the first home owner grant is the consideration for the transaction.

Example

Sarah's parents sold a home they owned in the ACT to her for \$10 000. The contract for the purchase is an eligible transaction, and the transaction qualifies for the first home owner boost for established homes. Instead of being paid a grant of \$14 000, Sarah is paid a grant of \$10 000.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

M 24C First home owner boost for new homes

- (1) An eligible transaction that is a contract for the purchase of a new home (other than a contract for an ‘off-the-plan’ purchase of a new home) qualifies for the first home owner boost for new homes if the contract is made on or after 14 October 2008 and on or before 30 June 2009, or a later date prescribed by regulation.
- (2) Also, an eligible transaction that is a contract for an ‘off-the-plan’ purchase of a new home qualifies for the first home owner boost for new homes—
 - (a) if the contract is made on or after 14 October 2008 and on or before 30 June 2009, or a later date prescribed by regulation; and
 - (b) if—
 - (i) the contract includes a provision to the effect that the eligible transaction must be completed before 1 January 2011; or
 - (ii) the eligible transaction is completed before 1 January 2011, or a later date the commissioner allows if satisfied on reasonable grounds that there are exceptional circumstances that prevented completion before 1 January 2011.

Example—exceptional circumstances

the builder becomes bankrupt before the eligible transaction is completed

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) Also, an eligible transaction that is a comprehensive home building contract for a new home qualifies for the first home owner boost for new homes—
- (a) if the contract is made on or after 14 October 2008 and on or before 30 June 2009, or a later date prescribed by regulation; and
 - (b) if the laying of the foundations for the home begins within 26 weeks after the day the contract is made, or any longer period the commissioner allows if satisfied on reasonable grounds that there are exceptional circumstances that prevented the laying of the foundations within the 26 weeks; and
 - (c) if—
 - (i) the contract includes a provision to the effect that the building work must be completed within 18 months after the day the laying of the foundations for the home begins; or
 - (ii) the building work is completed within 18 months after the day the laying of the foundations for the home begins, or any longer period the commissioner allows if satisfied on reasonable grounds that there are exceptional circumstances that prevented the completion within the 18 months.
- (4) Also, an eligible transaction that is the building of a new home by an owner-builder qualifies for the first home owner boost for new homes if—
- (a) the commencement date of the eligible transaction is on or after 14 October 2008 and on or before 30 June 2009, or a later date prescribed by regulation; and

- (b) the transaction is completed within 18 months after the commencement date, or any longer period the commissioner allows if satisfied on reasonable grounds that there are exceptional circumstances that prevented the completion within the 18 months.
- (5) However, an eligible transaction that is a contract does not qualify for the first home owner boost for new homes if the commissioner is satisfied on reasonable grounds that—
- (a) the contract replaces a contract made before 14 October 2008; and
 - (b) the replaced contract was—
 - (i) a contract for the purchase of the same home; or
 - (ii) a comprehensive home building contract to build the same or a substantially similar home.

24D First home owner boost for established homes

- (1) An eligible transaction qualifies for the first home owner boost for established homes if—
- (a) the eligible transaction is a contract for the purchase of a home; and
 - (b) the home is not a new home; and
 - (c) the contract is made on or after 14 October 2008 and on or before 30 June 2009, or a later date prescribed by regulation.
- (2) However, an eligible transaction that is a contract for the purchase of a home does not qualify for the first home owner boost for established homes if the commissioner is satisfied that—
- (a) the contract replaces a contract made before 14 October 2008; and

- (b) the replaced contract was a contract for the purchase of the same home.

24E Validating payment of grants for certain eligible transactions

The payment of an amount as a first home owner grant before the day this division commences, and anything done under this Act or the *Taxation Administration Act 1999* in relation to the grant, is validated to the extent that it would have been valid if this Act (as amended by the *First Home Owner Grant Amendment Act 2009*) had been in force when the payment was made or the thing was done.

24F Transitional regulations

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of the *First Home Owner Grant Amendment Act 2009*.
- (2) A regulation may modify this division to make provision in relation to anything that, in the Executive's opinion, is not, or is not adequately or appropriately, dealt with in this division.
- (3) A regulation under subsection (2) has effect despite anything else in this Act.

24G Transitional effect—Legislation Act, s 88

This division (other than section 24F) is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.

24H Expiry—div 2.5A etc

This division and the following definitions in the dictionary expire on 1 July 2013:

- *comprehensive home building contract*
- *contract for an ‘off-the-plan’ purchase*
- *contract for the purchase of a home*
- *GST Act*
- *home built to replace demolished premises*
- *new home*
- *owner-builder*
- *substantially renovated home.*

Division 2.6 Objections and appeals

24I Meaning of *objector*—div 2.6

In this division:

objector means a person who gives a written objection to the commissioner under section 25.

25 Objections

- (1) An applicant may give a written objection to the commissioner if the applicant is dissatisfied with the commissioner’s decision in any way.

Note 1 For how documents may be given, see Legislation Act, pt 19.5.

Note 2 A fee may be determined under s 54 (Determination of fees) for this section.

- (2) A third-party debtor for a grant recipient may give a written objection to the commissioner if the debtor is dissatisfied with a decision of the commissioner to require the debtor to pay a recoverable amount instead of the grant recipient.

- (3) The commissioner must refund any fee paid in relation to the objection if—
- (a) the commissioner allows the objection in whole or in part; or
 - (b) the objector applies to the ACAT for review of the commissioner's decision on the objection and—
 - (i) the ACAT or a court hearing the review or appeal on the matter upholds the objection in whole or in part; and
 - (ii) the period when any further appeal can be made has ended; and
 - (iii) neither the objector nor the commissioner has appealed against the decision in relation to a part of the objection that was upheld.
- (4) In this section:
recoverable amount—see section 49 (1).

26 Grounds for objection

- (1) The grounds for the objection must be stated fully and in detail and must be in writing.
- (2) The burden of showing that the objection should be upheld lies with the objector.

27 Time for making objection

The objection must be given to the commissioner not later than 60 days after notice of the decision objected to is given to the objector.

28 Objections made out of time

- (1) The commissioner may permit the objector to make an objection after the 60-day period.

- (2) If the objector wishes to make the objection after the 60-day period, the objector must state fully and in detail, in writing, the circumstances concerning and the reasons for the failure to make the objection within the period.
- (3) The commissioner may give permission unconditionally or subject to conditions or may refuse permission.
- (4) The commissioner must give notice to the objector of the commissioner's decision.

Note If a form is approved under s 55 (Approved forms) for a notice, the form must be used.
- (5) If the commissioner does not give permission unconditionally, the commissioner must include in the notice an explanation for refusing to give permission or for imposing conditions on the permission.

29 Decision on objection

The commissioner must consider the objection and either allow the objection in whole or in part or disallow the objection.

30 Reviewable decision notices

The commissioner must give a reviewable decision notice to the objector of the commissioner's decision on an objection.

Note 1 The commissioner must also take reasonable steps to give a reviewable decision notice to any other person whose interests are affected by the decision (see *ACT Civil and Administrative Tribunal Act 2008*, s 67A).

Note 2 The requirements for reviewable decision notices are prescribed under the *ACT Civil and Administrative Tribunal Act 2008*.

31 Applications for review

The following may apply to the ACAT for review of a reviewable decision:

- (a) the objector in relation to the decision;

- (b) any other person whose interests are affected by the decision.

Note If a form is approved under the *ACT Civil and Administrative Tribunal Act 2008* for the application, the form must be used.

32 Giving effect to decision on review

- (1) Within 60 days after a decision of the ACAT becomes final, the commissioner must take any action that is necessary to give effect to the decision.
- (2) For this section, a decision of the ACAT becomes final when a period of 30 days has passed after 1 of the following decisions and no appeal against the decision is made within the 30-day period:
 - (a) a decision of the ACAT on application for review;
 - (b) a decision by a court hearing an appeal from—
 - (i) the decision of the ACAT; or
 - (ii) a decision of a lower court in relation to the decision of the ACAT.

Part 3 Administration

Division 3.1 Administration generally

33 Administration

The commissioner is responsible to the Minister for the administration of the first home owner grant scheme.

34 Authorised officers

- (1) A person is an authorised officer for this Act if the person is an authorised officer under the *Taxation Administration Act 1999*, section 79.
- (2) For this Act, a notice may be issued by the commissioner under the *Taxation Administration Act 1999*, section 79 (3) to a person who is engaged in the administration of a corresponding law.
- (3) A person to whom the commissioner delegates functions under division 3.2 is an authorised officer for this Act and the *Taxation Administration Act 1999*.

Note The commissioner's power of delegation is in the *Taxation Administration Act 1999*, s 78.

35 Identity cards

- (1) An identity card issued to a person under the *Taxation Administration Act 1999*, section 80 (1) may state that the person is an authorised officer for the purposes of this Act.

Note Section 80 (1) requires an identity card to be issued to each authorised person.

- (2) This section is additional to, and does not limit, the *Taxation Administration Act 1999*, section 80.

36 Administration agreements

- (1) Without limiting the *Taxation Administration Act 1999*, section 78, the commissioner may enter into an agreement (an **administration agreement**) with a financial institution or anyone else under which—
 - (a) the commissioner delegates under that section functions related to the administration of the first home owner grant scheme; and
 - (b) the financial institution or other person is required to carry out the delegated functions in accordance with stated conditions.

Note Under the *Taxation Administration Act 1999*, s 78 the commissioner may delegate to any person any function of the commissioner under that or any other Act.

- (2) The conditions of an administration agreement may include conditions prescribed under the regulations.
- (3) If an administration agreement with a financial institution or anyone else includes a condition prescribed by regulation, the financial institution or other person must comply with the condition.

Maximum penalty: 50 penalty units.

- (4) An offence against this section is a strict liability offence.
- (5) The commissioner may, at any time, revoke an administration agreement, including any delegation included in the agreement.

Division 3.2 Investigations

37 Authorised investigations

An **authorised investigation** is an investigation to decide—

- (a) whether an application under this Act or a corresponding law for a first home owner grant has been properly made; or
- (b) whether an objection to a decision made under this Act or a corresponding law should be upheld; or

- (c) whether an applicant to whom, or for whose benefit, a first home owner grant has been paid under this Act or a corresponding law was eligible for the grant; or
- (d) whether a condition on which a first home owner grant has been paid under this Act or a corresponding law has been complied with; or
- (e) anything else reasonably related to the administration or enforcement of this Act or a corresponding law.

38 Cross-border investigation

- (1) The commissioner may, at the request of an authority responsible for administering a corresponding law, carry out an authorised investigation for the corresponding law.
- (2) The commissioner may, under the *Taxation Administration Act 1999*, section 78, delegate powers of investigation under this division to the authority responsible for the administration of a corresponding law, or a person nominated by that authority.
- (3) Subsection (2) does not limit the *Taxation Administration Act 1999*, section 78.

39 Power to require information, records or other documents or attendance for examination

- (1) The commissioner may, for an authorised investigation, by written notice given to a person, require the person—
 - (a) to provide to the commissioner (either orally or in writing) information that is described in the notice; or
 - (b) to attend and give evidence before an authorised officer; or
 - (c) to produce to the commissioner a record or other document described in the notice that is in the person's custody or control.

Note For how documents may be given, see Legislation Act, pt 19.5.

- (2) The commissioner—
- (a) may state whether information or evidence to be provided or given under this section must be given orally or in writing; and
 - (b) may require any information or evidence given in writing to be in the form of, or verified by, a statutory declaration; and
 - (c) may require any information or evidence given orally to be given on oath or affirmation.
- (3) A person commits an offence if the person—
- (a) fails to comply with the requirements of a notice under this section within the period stated in the notice or any further period allowed by the commissioner; or
 - (b) fails to comply with any other requirement of the commissioner about the giving of evidence or how information or evidence is to be provided or given under this section.
- Maximum penalty: 50 penalty units.
- (4) Subsection (3) does not apply if the person has a reasonable excuse for failing to comply with the requirement.
- (5) An offence against this section is a strict liability offence.

40 Powers of entry and inspection

- (1) An authorised officer may, for an authorised investigation, enter and inspect any premises at any reasonable time and do any of the following:
- (a) remain on the premises;
 - (b) examine all documents and seize and remove, or take copies of or extracts from, any document on behalf of the commissioner;
 - (c) require anyone on the premises to answer questions or otherwise provide information;

- (d) require anyone on the premises to give access to any document in the person's custody or control, and to—
 - (i) produce or display the document; or
 - (ii) provide a copy of the document or a version of it in some form other than that in which it is normally kept;in any printed, electronic or other form that it is reasonably practicable to provide;
 - (e) require the owner or occupier of the premises to provide the authorised officer with such assistance and facilities as are reasonably necessary to enable the authorised officer to exercise powers under this division.
- (2) An authorised officer who enters premises under subsection (1) and is requested by the occupier to identify himself or herself is only authorised to remain on the premises if the authorised officer produces his or her identity card to the occupier.
 - (3) The powers of entry and inspection under this section must not be exercised in relation to premises, or a part of premises, used for residential purposes except with the consent of the owner or occupier of the premises or part.
 - (4) In this section:
occupier, of premises, includes a person apparently in charge of or responsible for the premises.

41 Search warrant

- (1) If a magistrate is satisfied, on the application of the commissioner supported by an affidavit or other sworn evidence, that there is a reasonable ground for suspecting that a document relevant to an authorised investigation may be found in particular premises, the magistrate may issue a warrant authorising an authorised officer together with any assistants named or described in the warrant—

- (a) to enter those premises, using such force as is necessary for the purpose; and
 - (b) to search the premises and to break open and search anything in the premises in which a document may be stored or concealed; and
 - (c) to seize or remove, on behalf of the commissioner, any document that appears to be relevant to the authorised investigation.
- (2) The powers given by this section are additional to, and do not limit, any other powers given by law.

42 Use and inspection of documents and records produced or seized

- (1) This section applies to a document that has been produced to the commissioner or seized and removed by an authorised officer.
- (2) The document may be kept for as long as is necessary to enable it to be inspected and copies of or extracts or notes from it to be made.
- (3) If the document is required by the commissioner as evidence for a legal proceeding, it may be kept until the proceedings are finally decided.
- (4) The commissioner must permit a person who would be entitled to inspect the document if it were not in the commissioner's possession to inspect the document at any reasonable time.
- (5) This section does not affect any lien a person has on the document.

43 Privileges against selfincrimination and exposure to civil penalty

- (1) This section applies if a person is required to answer a question, give information or produce a document under section 39.

- (2) The person cannot rely on the common law privileges against selfincrimination and exposure to the imposition of a civil penalty to refuse to answer the question, give the information or produce the document.

Note The Legislation Act, s 171 deals with client legal privilege.

- (3) However, any information, document or other thing obtained, directly or indirectly, because of the answering of the question, giving of the information or producing of the document, is not admissible in evidence against the person in a criminal proceeding, other than a proceeding for—
- (a) an offence in relation to the failure to answer the question, give the information or produce the document; or
 - (b) any offence in relation to the falsity or the misleading nature of the answer, information or document.

45 Failing to comply with requirement of authorised officer

- (1) A person must comply with a requirement made of the person by an authorised officer under this division.

Maximum penalty: 50 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) A person does not commit an offence against this section arising from the entry of an authorised officer into premises unless the prosecution establishes that, at the material time, the authorised officer had—
- (a) identified himself or herself as an authorised officer; and
 - (b) warned the person that a failure to comply with the requirement was an offence.

Part 4 Repayment and recovery of grant

46 Definitions—pt 4

In this part:

recoverable amount—see section 49 (1).

recovery notice—see section 49A (2).

46A Meaning of *third-party debtor*

A *third-party debtor*, for a grant recipient, means 1 or more of the following people:

- (a) a person from whom any money is due or accruing, or may become due, to the grant recipient;
- (b) a person who holds, or may subsequently hold, money for or on account of the grant recipient;
- (c) a person who holds, or may subsequently hold, money for or on account of someone else for payment to the grant recipient;
- (d) a person who has authority from someone else to pay money to the grant recipient.

47 Power to require repayment and impose penalty

- (1) The commissioner may, by written notice, require an applicant (or former applicant) for a first home owner grant to repay an amount paid on the application if—
 - (a) the amount was paid in error; or
 - (b) the commissioner reverses the decision under which the amount was paid for any other reason.

- (2) If, because of an applicant's dishonesty, an amount is paid by way of a first home owner grant, the commissioner may, by the notice in which repayment is required or a separate notice, impose a penalty of not more than the amount the applicant is required to repay.
- (3) If an applicant (or former applicant) for a first home owner grant fails to make a repayment required under this section or the conditions of the grant, the commissioner may, by written notice, impose a penalty of not more than the amount the applicant is required to repay.
- (4) If an amount is paid in error on an application for a first home owner grant to a third party, the commissioner may, by written notice, require the third party to repay the amount to the commissioner.

48 Interest in relation to repayments

- (1) A person is liable to pay interest under this section on the amount of a first home owner grant paid to the person if the amount is repayable under section 20 (2) (b) or section 21 (2).
- (2) A person is liable to pay interest under this section on an amount paid to the person on an application for a first home owner grant if the amount is repayable under section 47.
- (3) Interest under this section is to be calculated on a daily basis from—
 - (a) if the amount is repayable under section 20 (2) (b)—the relevant date as defined in section 20 (3); or
 - (b) if the amount is repayable under section 21 (2)—the day the notice mentioned in section 21 (2) (a) is given to the commissioner; or
 - (c) if the amount is repayable under section 47 (1)—the date the amount was paid to the applicant.
- (4) For this section, the interest rate is the interest rate mentioned in the *Taxation Administration Act 1999*, section 26.

49 Power to recover amount paid in error etc

- (1) This section applies to the following amounts (each of which is a *recoverable amount*):
 - (a) an amount that an applicant (or former applicant) for a first home owner grant is required to repay under the conditions of the grant or by requirement of the commissioner under this Act;
 - (b) the amount of a penalty imposed on an applicant (or former applicant) for a first home owner grant;
 - (c) an amount a third party is required to repay by requirement of the commissioner under this Act;
 - (d) interest the applicant is required to pay under section 48.
- (2) The liability arising from a requirement to pay (or repay) a recoverable amount is joint and several if the requirement attaches to 2 or more persons.
- (3) If an applicant who is liable to pay a recoverable amount has an interest in the home for which the first home owner grant was sought, the liability is a first charge on the applicant's interest in the home.
- (4) The commissioner may recover a recoverable amount as a debt to the Territory.
- (5) The commissioner may enter into an arrangement (which may include provision for the payment of interest) for payment of a liability outstanding under this section by instalments.
- (6) The commissioner may remit or refund all or part of an amount of interest paid or payable by a person.
- (7) The commissioner may write off the whole or part of a liability to pay a recoverable amount if satisfied that action, or further action, to recover the amount outstanding is impracticable or unwarranted.

49A Power to recover amounts from third-party debtors

- (1) The commissioner may require a third-party debtor for a grant recipient to pay a recoverable amount instead of the grant recipient.
- (2) The requirement must be made by written notice (a *recovery notice*) given to the third-party debtor.

Note For how documents may be given, see s 53 (1) (c).

- (3) The recovery notice must—
 - (a) state the date of the notice; and
 - (b) state the recoverable amount; and
 - (c) include a statement about the effect of section 49B (1); and
 - (d) if section 49B (2) applies—include a statement about the effect of the section, and the amount required to be paid out of each instalment; and
 - (e) include a statement about the effect of section 49B (3).
- (4) The recovery notice may also state a day by which the amount required to be paid under the recovery notice is payable.
- (5) The commissioner must give a copy of the recovery notice to the grant recipient.

49B Payment of recoverable amounts by third-party debtors

- (1) The amount that a third-party debtor for a grant recipient is required to pay under a recovery notice is—
 - (a) if the amount payable by the third-party debtor to the grant recipient is equal to or less than the recoverable amount—all of the amount payable; or
 - (b) if the amount payable by the third-party debtor to the grant recipient is more than the recoverable amount—the recoverable amount.

- (2) If the amount payable by the third-party debtor to the grant recipient is payable in instalments, the commissioner may require the debtor to pay the commissioner an amount out of each instalment.
- (3) A third-party debtor must pay the commissioner the amount required to be paid under a recovery notice by the later of the following:
 - (a) receipt of the recovery notice;
 - (b) when the amount held by the third-party debtor becomes due to the grant recipient;
 - (c) the day (if any) stated by the commissioner in the recovery notice.

49C Payment of recoverable amounts by others

- (1) This section applies if—
 - (a) the commissioner gives a recovery notice to a third-party debtor for a grant recipient; and
 - (b) someone else pays all or part of the recoverable amount to the commissioner after the notice is given.
- (2) If the other person pays all of the recoverable amount, the commissioner must—
 - (a) tell the third-party debtor that the debtor is not liable to pay the recoverable amount; and
 - (b) if the third-party debtor makes a payment towards the recoverable amount after the other person pays all of the amount—repay the third-party debtor the payment.
- (3) If the other person pays part of the recoverable amount, the commissioner must give the third-party debtor another notice (a *revised recovery notice*) stating the new amount that the debtor is required to pay.

49D Offence—third-party debtors to comply with notices

- (1) A third-party debtor for a grant recipient must comply with—
 - (a) a recovery notice; or
 - (b) if a revised recovery notice is given to the debtor—the revised recovery notice.

Maximum penalty: 50 penalty units.

- (2) If a third-party debtor is convicted of an offence against subsection (1), the court may, in addition to imposing a penalty on the debtor, order the debtor to pay the commissioner an amount that is not more than the recoverable amount under the recovery notice or revised recovery notice to which the offence relates.
- (3) In this section:
revised recovery notice—see section 49C (3).

49E Third-party debtors indemnified

A third-party debtor for a grant recipient who makes a payment under this part is—

- (a) taken to be acting under the authority of the grant recipient and anyone else concerned; and
- (b) indemnified by this section in relation to the payment.

Part 5 Miscellaneous

50 Secrecy

- (1) In this section:

person to whom this section applies means a person who—

- (c) is, or has been, engaged in work related to the administration of this Act; or
- (d) has obtained access to protected information (directly or indirectly) from a person who is, or has been, engaged in work related to the administration of this Act.

protected information means information about the following people that is disclosed to, or obtained by, a person to whom this section applies in the course of work related to the administration of this Act:

- (a) a grant recipient;
 - (b) a third-party debtor for a grant recipient.
- (2) A person to whom this section applies commits an offence if the person—
- (a) does something that discloses protected information about someone else; and
 - (b) is reckless about whether—
 - (i) the information is protected information about someone else; and
 - (ii) doing the thing would result in the information being disclosed.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (3) This section does not apply if the information is disclosed—
 - (a) under this Act or another territory law; or
 - (b) in relation to the exercise of a function, as a person to whom this section applies, under this Act or another territory law; or
 - (c) in relation to the administration or enforcement of—
 - (i) a corresponding law; or
 - (ii) a law of the Commonwealth, a State or another Territory for the assessment or imposition of a tax; or
 - (d) with the consent of the person to whom the information relates or a person acting for that person; or
 - (e) for the purpose of a legal proceeding; or
 - (f) as authorised by regulation.

51 Evidence

- (1) A certificate signed by the commissioner stating that a first home owner grant was paid to a person named in the certificate on a stated date is admissible in legal proceedings as evidence of the payment.
- (2) A copy of a notice issued by the commissioner imposing a penalty under this Act is admissible in legal proceedings as evidence of the imposition of the penalty.
- (3) A copy of a notice issued by the commissioner requiring the payment or repayment of a stated amount is admissible in legal proceedings as evidence—
 - (a) that the requirement was made; and
 - (b) that the amount stated in the notice was outstanding at the date of the notice.

52 Protection of officers etc

- (1) This section applies to—
 - (a) the commissioner; and
 - (b) an authorised officer; and
 - (c) a delegate of the commissioner who works in an administrative unit of the public service.
- (2) No personal liability attaches to a person to whom this section applies for an honest act or omission in the exercise, or purported exercise, of functions under this Act.
- (3) A liability that would, apart from subsection (2), lie against a person to whom this section applies lies against the Territory.

53 Application of certain provisions of Taxation Administration Act

- (1) The following sections of the *Taxation Administration Act 1999* apply to this Act as if it were a tax law within the meaning of that Act:
 - (a) section 127 (Service of documents on commissioner);
 - (b) section 128 (Day of service of document or payment of money);
 - (c) section 129 (Service of documents by commissioner).
- (2) This section does not, by implication, limit the application to this Act of any other provision of the *Taxation Administration Act 1999*.

54 Determination of fees

- (1) The Minister may determine fees for this Act.
- (2) A determination under this section is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

55 Approved forms

- (1) The commissioner may approve forms for this Act.

Note For other provisions about forms, see Legislation Act, s 255.

- (2) If the commissioner approves a form for a particular purpose, the approved form must be used for that purpose.

- (3) An approved form is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

56 Regulation-making power

- (1) The Executive may make regulations for this Act.

Note Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

- (2) A regulation may create offences and fix maximum penalties of not more than 10 penalty units for the offences.

Dictionary

(see s 2)

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 In particular, the Legislation Act, dict, pt 1, defines the following terms:

- ACAT
- administrative unit
- civil partner
- civil partnership
- commissioner for revenue
- contravene
- corporation
- exercise
- fail
- function
- penalty unit
- reviewable decision notice
- State
- writing.

Australian citizen means a person who is an Australian citizen under the *Australian Citizenship Act 2007* (Cwlth).

authorised investigation—see section 37.

authorised officer—see section 34.

building includes part of a building.

commencement date, of an eligible transaction—see section 13 (3) and (5).

commissioner means the commissioner for revenue.

completed, for an eligible transaction—see section 13 (4).

comprehensive home building contract, for division 2.5A (Amount of grant—certain eligible transactions)—see section 13 (7).

consideration, for an eligible transaction—see section 13 (6).

contract for an ‘off-the-plan’ purchase, of a new home, for division 2.5A (Amount of grant—certain eligible transactions)—see section 24A (1).

contract for the purchase of a home, for division 2.5A (Amount of grant—certain eligible transactions)—see section 13 (7).

corresponding law means an Act of a State corresponding to this Act.

eligibility criteria means the criteria for deciding whether an applicant for a first home owner grant is eligible for the grant (see division 2.2).

eligible transaction—see section 13 (1) and (2).

first home owner grant means a grant authorised under section 17.

first home owner grant scheme means the scheme for payment of first home owner grants established under this Act.

grant recipient means—

- (a) an applicant (or former applicant) for a first home owner grant to whom an amount is paid under this Act; or
- (b) any other person to whom an amount is paid under this Act.

GST Act for division 2.5A (Amount of grant—certain eligible transactions)—see section 24A (1).

guardian, of a person under a legal disability, includes a trustee who holds property on trust for the person under an instrument of trust or by order or direction of a court or tribunal.

home—see section 4.

home built to replace demolished premises, for division 2.5A (Amount of grant—certain eligible transactions)—see section 24A (3).

home owner—see section 5 (1).

identity card—see the *Taxation Administration Act 1999*, dictionary.

new home, for division 2.5A (Amount of grant—certain eligible transactions)—see section 24A (1).

objector, for division 2.6 (Objections and appeals)—see section 24I.

owner means—

- (a) of land—a person who has a relevant interest in the land; or
- (b) of a home—see section 5 (1).

owner-builder, for division 2.5A (Amount of grant—certain eligible transactions)—see section 13 (7).

partner, of an applicant—see section 6.

permanent resident means—

- (a) a person who holds a permanent visa for the *Migration Act 1958* (Cwlth), section 30; or
- (b) a New Zealand citizen who holds a special category visa under the *Migration Act 1958* (Cwlth), section 32.

recoverable amount, for part 4 (Repayment and recovery of grant)—see section 49 (1).

recovery notice, for part 4 (Repayment and recovery of grant)—see section 49A (2).

relevant interest in land—see section 5 (2), (3) and (4).

residence requirements means—

- (a) the requirement—
 - (i) under section 12 (1), that an applicant for a first home owner grant must occupy the home to which the application relates as the applicant’s principal place of residence for a continuous period of at least 6 months; or
 - (ii) under section 12 (1) and (2) (a), that an applicant for a first home owner grant must occupy the home to which the application relates as the applicant’s principal place of residence for a shorter period approved by the commissioner; and
- (b) the requirement under section 12 (3) that the period of occupation required under section 12 (1), or section 12 (1) and (2) (a), must start within 1 year after completion of the eligible transaction or a longer period approved by the commissioner.

substantially renovated home, for division 2.5A (Amount of grant—certain eligible transactions)—see section 24A (2).

third-party debtor, for a grant recipient—see section 46A.

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	par = paragraph/subparagraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	pt = part
exp = expires/expired	r = rule/subrule
Gaz = gazette	renum = renumbered
hdg = heading	reloc = relocated
IA = Interpretation Act 1967	R[X] = Republication No
ins = inserted/added	RI = reissue
LA = Legislation Act 2001	s = section/subsection
LR = legislation register	sch = schedule
LRA = Legislation (Republication) Act 1996	sdiv = subdivision
mod = modified/modification	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

Endnotes

3 Legislation history

3 Legislation history

First Home Owner Grant Act 2000 No 23

notified 15 June 2000 (Gaz 2000 No 24)
s 1, s 2 commenced 15 June 2000 (IA s 10B)
remainder commenced 1 July 2000 (s 2)

as amended by

Treasury and Infrastructure Legislation Amendment Act 2000 No 78 s 3

notified 21 December 2000 (Gaz 2000 No S69)
s 1, s 2 commenced 21 December 2000 (IA s 10B)
s 3 commenced 1 July 2000 (s 2 (1))

Legislation (Consequential Amendments) Act 2001 No 44 pt 154

notified 26 July 2001 (Gaz 2001 No 30)
s 1, s 2 commenced 26 July 2001 (IA s 10B)
pt 154 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

First Home Owner Grant Amendment Act 2001 No 46

notified 12 July 2001 (Gaz 2001 No 28)
commenced 12 July 2001 (s 2)

Legislation Amendment Act 2002 No 11 pt 2.21

notified LR 27 May 2002
s 1, s 2 commenced 27 May 2002 (LA s 75)
pt 2.21 commenced 28 May 2002 (s 2 (1))

First Home Owner Grant Amendment Act 2002 No 13

notified LR 23 May 2002
s 1, s 2 commenced 23 May 2002 (LA s 75)
remainder commenced 24 May 2002 (s 2)

Revenue Legislation Amendment Act 2002 (No 2) No 48 pt 2

notified LR 20 December 2002
s 1, s 2 commenced 20 December 2002 (LA s 75 (1))
pt 2 commenced 21 December 2002 (s 2 (2))

**Legislation (Gay, Lesbian and Transgender) Amendment Act 2003
A2003-14 sch 1 pt 1.16**

notified LR 27 March 2003
s 1, s 2 commenced 27 March 2003 (LA s 75)
sch 1 pt 1.16 commenced 28 March 2003 (s 2)

Statute Law Amendment Act 2003 A2003-41 sch 3 pt 3.11

notified LR 11 September 2003
s 1, s 2 commenced 11 September 2003 (LA s 75 (1))
sch 3 pt 3.11 commenced 9 October 2003 (s 2 (1))

Statute Law Amendment Act 2003 (No 2) A2003-56 sch 3 pt 3.10

notified LR 5 December 2003
s 1, s 2 commenced 5 December 2003 (LA s 75 (1))
sch 3 pt 3.10 commenced 19 December 2003 (s 2)

First Home Owner Grant Amendment Act 2003 A2003-60

notified LR 18 December 2003
s 1, s 2 commenced 18 December 2003 (LA s 75 (1))
s 3, s 4 commenced 19 December 2003 (s 2 (1))
remainder commenced 1 January 2004 (s 2 (2))

**Criminal Code (Theft, Fraud, Bribery and Related Offences)
Amendment Act 2004 A2004-15 sch 2 pt 2.36**

notified LR 26 March 2004
s 1, s 2 commenced 26 March 2004 (LA s 75 (1))
sch 2 pt 2.36 commenced 9 April 2004 (s 2 (1))

Criminal Code Harmonisation Act 2005 A2005-54 sch 1 pt 1.20

notified LR 27 October 2005
s 1, s 2 commenced 27 October 2005 (LA s 75 (1))
sch 1 pt 1.20 commenced 24 November 2005 (s 2)

Civil Unions Act 2006 A2006-22 sch 1 pt 1.15

notified LR 19 May 2006
s 1, s 2 commenced 19 May 2006 (LA s 75 (1))
sch 1 pt 1.15 never commenced

Note Act repealed by disallowance 14 June 2006 (see Cwlth Gaz
2006 No S93)

Endnotes

3 Legislation history

Statute Law Amendment Act 2007 (No 3) A2007-39 sch 3 pt 3.18

notified LR 6 December 2007

s 1, s 2 commenced 6 December 2007 (LA s 75 (1))

sch 3 pt 3.18 commenced 27 December 2007 (s 2)

Civil Partnerships Act 2008 A2008-14 sch 1 pt 1.13

notified LR 15 May 2008

s 1, s 2 commenced 15 May 2008 (LA s 75 (1))

sch 1 pt 1.13 commenced 19 May 2008 (s 2 and CN2008-8)

ACT Civil and Administrative Tribunal Legislation Amendment Act 2008 (No 2) A2008-37 sch 1 pt 1.42

notified LR 4 September 2008

s 1, s 2 commenced 4 September 2008 (LA s 75 (1))

sch 1 pt 1.42 commenced 2 February 2009 (s 2 (1) and see ACT Civil and Administrative Tribunal Act 2008 A2008-35, s 2 (1) and CN2009-2)

Revenue Legislation Amendment Act 2009 A2009-4 pt 3

notified LR 4 March 2009

s 1, s 2 commenced 4 March 2009 (LA s 75 (1))

pt 3 commenced 5 March 2009 (s 2)

First Home Owner Grant Amendment Act 2009 A2009-10

notified LR 7 April 2009

s 1, s 2 commenced 7 April 2009 (LA s 75 (1))

remainder commenced 8 April 2009 (s 2)

as modified by

First Home Owner Grant Regulation 2008 SL2008-4 (as am by SL2009-33 s 4)

notified LR 11 March 2008

s 1, s 2 commenced 11 March 2008 (LA s 75 (1))

remainder commenced 12 March 2008 (LA s 73 (3) but see CN2008-2)

First Home Owner Grant Amendment Regulation 2009 (No 2) SL2009-33 s 4

notified LR 29 June 2009

s 1, s 2 commenced 29 June 2009 (LA s 75 (1))

s 4 commenced 1 July 2009 (s 2)

Note This regulation only amends the First Home Owner Grant Regulation 2008 SL2008-4.

as amended by

Statute Law Amendment Act 2009 A2009-20 sch 3 pt 3.33

notified LR 1 September 2009

s 1, s 2 commenced 1 September 2009 (LA s 75 (1))

sch 3 pt 3.33 commenced 22 September 2009 (s 2)

4 Amendment history

Dictionary

s 2 orig s 2 om R1 LRA
ins A2003-41 amdt 3.218
am A2003-56 amdt 3.140

Notes

s 3 sub A2003-41 amdt 3.218

Offences against Act—application of Criminal Code etc

s 3A ins A2005-54 amdt 1.133

Ownership of land and homes

s 5 am A2003-41 amdts 3.219–3.221

Partner of applicant

s 6 am A2003-14 amdt 1.58, amdt 1.59; A2006-22 amdt 1.65
(A2006-22 rep before commenced by disallowance (see
Cwlth Gaz 2006 No S93)); A2008-14 amdt 1.36

Eligibility criteria for applicants

div 2.2 hdg sub A2003-41 amdt 3.222

Criterion 1A—Applicant to be at least 18 years old

s 8A ins A2003-60 s 4
(3)-(5) exp 19 December 2004 (s 8A (5))

Criterion 4—Applicant (or applicant's partner) must not have had relevant interest in residential property

s 11 am 2002 No 48 s 4; A2003-41 amdt 2.223; A2003-60 ss 5-7

Criterion 5—Residence requirements

s 12 sub A2003-60 s 8

Meaning of *eligible transaction* etc

s 13 hdg sub A2003-41 amdt 2.224
s 13 am A2003-41 amdts 2.225–2.229

Endnotes

4 Amendment history

Special eligible transactions

s 13A ins 2001 No 46 s 4
sub 2002 No 13 s 4
am A2003-41 amdt 2.230, amdt 2.231
exp 1 July 2004 (s 13A (12))

Application for grant

s 14 am 2001 No 44 amdts 1.1727-1.1729
renum R2 LA (see 2001 No 44 amdt 1.1730)
am A2003-41 amdt 3.232

Amount of grant

s 18 am 2001 No 46 s 5, s 6; 2002 No 13 s 5, s 6; A2009-10 s 4
(2)-(4) exp 1 July 2013 (s 18 (4) (LA s 88 declaration applies))

Amount of grant for special eligible transactions

s 18A ins 2002 No 13 s 7
exp 1 July 2004 (s 18A (6))

Payment in anticipation of compliance with residence requirements

s 20 hdg sub A2003-60 s 9
s 20 am A2003-60 s 10; A2005-54 amdt 1.134

Conditions generally

s 21 am A2005-54 amdt 1.135; A2009-10 s 5

Death of applicant

s 22 am A2003-60 s 11

Amount of grant—certain eligible transactions

div 2.5A hdg ins A2009-10 s 6
exp 1 July 2013 (s 24H (LA s 88 declaration applies))

Definitions—div 2.5A

s 24A **orig s 24A**
ins A2009-4 s 6
renum as s24I
pres s 24A
ins A2009-10 s 6
exp 1 July 2013 (s 24H (LA s 88 declaration applies))
def **comprehensive home building contract** ins A2009-10
s 6
def **contract for an 'off-the-plan' purchase** ins A2009-10 s 6
def **contract for the purchase of a home** ins A2009-10 s 6
def **GST Act** ins A2009-10 s 6
def **new home** ins A2009-10 s 6
def **owner-builder** ins A2009-10 s 6

Amount of grant—certain eligible transactions

s 24B ins A2009-10 s 6
exp 1 July 2013 (s 24H (LA s 88 declaration applies))

First home owner boost for new homes

s 24C ins A2009-10 s 6
 mod SL2008-4 s 3B (as am by SL2009-33 s 4)
exp 1 July 2013 (s 24H (LA s 88 declaration applies))

First home owner boost for established homes

s 24D ins A2009-10 s 6
exp 1 July 2013 (s 24H (LA s 88 declaration applies))

Validating payment of grants for certain eligible transactions

s 24E ins A2009-10 s 6
exp 1 July 2013 (s 24H (LA s 88 declaration applies))

Transitional regulations

s 24F ins A2009-10 s 6
exp 1 July 2013 (s 24H)

Transitional effect—Legislation Act, s 88

s 24G ins A2009-10 s 6
exp 1 July 2013 (s 24H (LA s 88 declaration applies))

Expiry—div 2.5A etc

s 24H ins A2009-10 s 6
exp 1 July 2013 (s 24H (LA s 88 declaration applies))

Meaning of *objector*—div 2.6

s 24I (prev s 24A) ins A2009-4 s 6
 renum as s 24I R20 LA

Objections

s 25 am 2001 No 44 amdts 1.1731-1.1734; A2003-41 amdt 3.233;
 A2008-37 amdt 1.177; A2009-4 ss 7-9; ss renum R19 LA

Grounds for objection

s 26 am A2009-4 s 10

Time for making objection

s 27 am A2009-4 s 10

Objections made out of time

s 28 am 2001 No 44 amdt 1.1735, amdt 1.1736; A2009-4 s 10

Reviewable decision notices

s 30 am 2001 No 44 amdt 1.1737, amdt 1.1738
 sub A2008-37 amdt 1.178

Applications for review

s 31 sub A2008-37 amdt 1.178
 am A2009-4 s 10

Giving effect to decision on review

s 32 sub A2008-37 amdt 1.178

Endnotes

4 Amendment history

Administration agreements

s 36 am A2003-41 amdt 3.234; A2005-54 amdt 1.136, amdt 1.137

Power to require information, records or other documents or attendance for examination

s 39 am A2003-41 amdt 3.235; A2005-54 amdt 1.138

Search warrant

s 41 am A2003-41 amdt 3.236

Privileges against selfincrimination and exposure to civil penalty

s 43 am 2002 No 11 amdt 2.42
sub A2005-54 amdt 1.139

Legal professional privilege

s 44 om 2002 No 11 amdt 2.43

Failing to comply with requirement of authorised officer

s 45 hdg sub A2004-15 amdt 2.81
s 45 am A2004-15 amdt 2.82; ss renum A2004-15 amdt 2.83;
A2005-54 amdt 1.140, amdt 1.141

Repayment and recovery of grant

pt 4 hdg sub A2009-4 s 11

Definitions—pt 4

s 46 om A2004-15 amdt 2.84
ins A2009-4 s 11
def **recoverable amount** ins A2009-4 s 11
def **recovery notice** ins A2009-4 s 11

Meaning of *third-party debtor*

s 46A ins A2009-4 s 11

Interest in relation to repayments

s 48 am A2009-4 s 12, s 13; pars renum R19 LA

Power to recover amount paid in error etc

s 49 am A2009-4 s 14, s 15

Power to recover amounts from third-party debtors

s 49A ins A2009-4 s 16

Payment of recoverable amounts by third-party debtors

s 49B ins A2009-4 s 16

Payment of recoverable amounts by others

s 49C ins A2009-4 s 16

Offence—third-party debtors to comply with notices

s 49D ins A2009-4 s 16

Third-party debtors indemnified

s 49E ins A2009-4 s 16

Miscellaneous

pt 5 hdg ins A2003-60 s 12
exp 1 January 2005 (s 57 (3))
ins A2009-4 s 16

Secrecy

s 50 am A2003-41 amdt 3.237
sub A2005-54 amdt 1.142
am A2007-39 amdt 3.71; A2009-4 s 17

Protection of officers etc

s 52 am A2003-41 amdt 3.238

Determination of fees

s 54 am 2001 No 44 amdt 1.1739, amdt 1.1740; A2007-39
amdt 3.72

Approved forms

s 55 prev s 55 renum as s 56
ins 2001 No 44 amdt 1.1744
am A2003-41 amdt 3.239; A2007-39 amdt 3.72

Regulation-making power

s 56 orig s 56 ins 2001 No 46 s 7
exp 1 August 2000 (s 56 (2))
(prev s 55) am 2001 No 44 amdt 1.1741, amdt 1.1742
renum 2001 No 44 amdt 1.1743
am A2007-39 amdt 3.73

Amendments by First Home Owner Grant Amendment Act 2003—continuing operation of Act for certain eligible transactions

s 57 ins 2002 No 13 s 8
exp 24 June 2002 (s 57 (2))
ins A2003-60 s 12
exp 1 January 2005 (s 57 (3))

Dictionary

dict am A2003-41 amdt 3.240, amdt 3.241; A2006-22 amdt 1.66
(A2006-22 rep before commenced by disallowance (see
Cwlth Gaz 2006 No S93)); A2008-14 amdt 1.37; A2008-37
amdt 1.179
def **Australian citizen** sub A2003-41 amdt 3.242; A2009-20
amdt 3.80
def **commencement date** am A2003-41 amdt 3.243
def **commissioner** am A2003-41 amdt 3.244
def **completed** am A2003-41 amdt 3.245
def **comprehensive home building contract** om A2003-41
amdt 3.246
ins A2009-10 s 7
exp 1 July 2013 (s 24H)

Endnotes

4 Amendment history

- def **consideration** am A2003-41 amdt 3.247
- def **contract for an 'off-the-plan' purchase** ins A2009-10 s 7
exp 1 July 2013 (s 24H)
- def **contract for the purchase of a home** om A2003-41
amdt 3.248
ins A2009-10 s 7
exp 1 July 2013 (s 24H)
- def **corresponding law** am A2003-41 amdt 3.249
- def **determined fee** om 2001 No 44 amdt 1.1745
- def **function** om A2003-41 amdt 3.250
- def **grant recipient** ins A2009-4 s 18
- def **GST Act** ins A2009-10 s 7
exp 1 July 2013 (s 24H)
- def **home built to replace demolished premises** ins
A2009-10 s 7
exp 1 July 2013 (s 24H)
- def **home owner** sub A2003-41 amdt 3.251
- def **identity card** am A2003-41 amdt 3.252
sub A2003-56 amdt 3.141
- def **new home** ins A2009-10 s 7
exp 1 July 2013 (s 24H)
- def **objector** ins A2009-4 s 18
- def **option** om A2003-41 amdt 3.253
- def **owner** am A2003-41 amdt 3.254
- def **owner-builder** om A2003-41 amdt 3.255
ins A2009-10 s 7
exp 1 July 2013 (s 24H)
- def **partner** sub A2003-41 amdt 3.256
- def **permanent resident** sub 2000 No 78 s 3
- def **recoverable amount** ins A2009-4 s 18
- def **recovery notice** ins A2009-4 s 18
- def **residence requirement** om A2003-60 s 13
- def **residence requirements** ins A2003-60 s 13
- def **residential property** om A2003-41 amdt 3.257
- def **substantially renovated home** ins A2009-10 s 7
exp 1 July 2013 (s 24H)
- def **taxation law** om A2003-41 amdt 3.258
- def **third-party debtor** ins A2009-4 s 18
- def **tribunal** om A2003-41 amdt 3.259

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	not amended	1 August 2000
2	Act 2001 No 46	12 September 2001
3	Act 2002 No 13	24 May 2002
4	Act 2002 No 13	28 May 2002
5	Act 2002 No 13	25 June 2002
6	Act 2002 No 48	21 December 2002
7	A2003-14	28 March 2003
8*	A2003-41	9 October 2003
9	<u>A2003-60</u>	19 December 2003
10	A2003-60	24 December 2003
11	A2004-15	9 April 2004
12	A2004-15	2 July 2004
13	A2004-15	20 December 2004
14	A2004-15	2 January 2005
15	A2005-54	24 November 2005
16	A2007-39	27 December 2007
17	A2008-14	19 May 2008
18	A2008-37	2 February 2009
19	A2009-4	5 March 2009
20	A2009-10	8 April 2009

Endnotes

6 Modifications of republished law with temporary effect

Republication No	Amendments to	Republication date
21	SL2009-33	1 July 2009

6 Modifications of republished law with temporary effect

The following modifications have not been included in this republication:

First Home Owner Grant Regulation 2008 SL2008-4 s 3B (as am by SL2009-33 s 4)
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3B First home owner boost—modification of Act, s 24C— Act, s 24F (2)

The Act, section 24C applies as if the following subsection were inserted:

- ‘(2A) Also, an eligible transaction that is a contract for an ‘off-the-plan’ purchase of a new home qualifies for the first home owner boost for new homes—
- (a) if the contract is made on or after 1 July 2009 and on or before 30 September 2009, or a later date prescribed by regulation; and
 - (b) if—
 - (i) the contract includes a provision to the effect that the eligible transaction must be completed before 1 April 2011; or
 - (ii) the eligible transaction is completed before 1 April 2011, or a later date the commissioner allows if satisfied on reasonable grounds that there are exceptional circumstances that prevented completion before 1 April 2011.’

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