



Australian Capital Territory

First Home Owner Grant Amendment Act 2010

A2010-46

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Australian Capital Territory

First Home Owner Grant Amendment Act 2010

A2010-46

An Act to amend the *First Home Owner Grant Act 2000*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 Name of Act

This Act is the *First Home Owner Grant Amendment Act 2010*.

2 Commencement

This Act commences on the day after its notification day.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

3 Legislation amended

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

**4 Entitlement to grant
New section 7 (1) (c)**

insert

- (c) if the first home owner grant cap applies to the eligible transaction for which the grant is sought—the total value of the transaction is not more than the amount of the first home owner grant cap.

Note 1 The first home owner grant cap applies to an eligible transaction with a commencement date on or after 1 January 2011 (see s 13A).

Note 2 See s 13B for how to work out the total value of an eligible transaction.

**5 Criterion 3—Applicant (or applicant’s partner) must not have received an earlier grant
Section 10 (2)**

substitute

- (2) However, the applicant is not ineligible if—
- (a) for an application that relates to an eligible transaction with a commencement date before 1 January 2011—the grant was

later paid back under the conditions on which the grant was made; or

- (b) for an application that relates to an eligible transaction with a commencement date on or after 1 January 2011—
 - (i) the grant was later paid back; and
 - (ii) any amount payable as a penalty or as interest was also paid in relation to the earlier application.

6 New section 12A

in division 2.2, insert

12A Criterion 6—Applicant must not have been convicted of offence against Act

An applicant is ineligible if the applicant has been convicted of an offence against this Act or a corresponding law.

7 New sections 13A and 13B

in division 2.3, insert

13A First home owner grant cap

- (1) The first home owner grant cap applies to an eligible transaction with a commencement date on or after 1 January 2011.

Note The first home owner grant cap does not apply to an eligible transaction that qualifies for the first home owner boost for new homes or established homes. The first home owner boost is available for eligible transactions until 31 December 2009.

- (2) The amount of the first home owner grant cap is—
 - (a) \$750 000; or
 - (b) if another amount is prescribed by regulation—the prescribed amount.

13B Meaning of *total value* of eligible transaction etc

- (1) The ***total value*** of an eligible transaction is as follows:
 - (a) for a contract for the purchase of a home, the greater of the following:
 - (i) the consideration for the contract;
 - (ii) the unencumbered value, at the commencement date, of the home;
 - (b) for a comprehensive home building contract, the amount worked out by adding together—
 - (i) the consideration for the contract; and
 - (ii) the value, at the commencement date, of the relevant interest in the land on which the home is to be built;
 - (c) for the building of a home by an owner builder, the amount worked out by adding together—
 - (i) the unencumbered value, at the date the transaction is completed, of the home; and
 - (ii) the value, at the date the transaction is completed, of the relevant interest in the land on which the home is built.
- (2) The ***value of the relevant interest in the land*** on which a home is, or is to be, built is the greater of the following:
 - (a) the consideration paid or payable for the interest;
 - (b) the unencumbered value of the interest.
- (3) The ***unencumbered value*** of a home or relevant interest in land is the value of the home or interest worked out without regard to—
 - (a) any encumbrance to which the home or interest is subject, whether contingently or otherwise; or

- (b) any arrangement that results in the reduction of the value of the home or interest, if the parties to the arrangement are not dealing with each other at arm's length; or
 - (c) any scheme or arrangement that, in the commissioner's opinion, was entered into, made or carried out by a party to the scheme or arrangement for the main purpose of reducing the value of the home or interest; or
 - (d) if the home or interest is held by a person on trust as guardian for another person who is under a legal disability—any liabilities of the trust, including the liability to indemnify the trustee.
- (4) For the purposes of subsection (3) (c), the commissioner may consider—
- (a) the duration of the scheme or arrangement before the commencement date of the transaction to which the home or interest relates; and
 - (b) whether there is any commercial efficacy to the making of the scheme or arrangement other than to reduce the value of the home or interest; and
 - (c) anything else the commissioner considers relevant.

8 Section 20 heading

substitute

20 Payment in anticipation of compliance with residence requirements or first home owner grant cap

9 New section 20 (3A) and (3B)

insert

- (3A) The commissioner may authorise payment of a first home owner grant in anticipation of compliance with the first home owner grant cap if—
- (a) the grant is to be paid in relation to an eligible transaction that involves the building of a home by an owner builder before the completion of the eligible transaction; and
 - (b) the first home owner grant cap applies to the eligible transaction.
- (3B) If a first home owner grant is paid in anticipation of compliance with the first home owner grant cap, the payment is made on condition that, if the applicant becomes aware that the total value of the eligible transaction is, or will be, more than the first home owner grant cap, the applicant must, within 14 days after the day the applicant becomes aware of that fact—
- (a) give written notice of that fact to the commissioner; and
 - (b) repay the amount of the grant.

10 Section 20 (4)

after

subsection (2)

insert

or (3B)

11 New section 38A*insert***38A Power to require valuation**

- (1) For the purposes of deciding the total value of an eligible transaction, the commissioner may do 1 or more of the following:
 - (a) require, by written notice, an applicant or former applicant for a first home owner grant to give the commissioner—
 - (i) a valuation by a valuer of any property or consideration;
or
 - (ii) other evidence of the value of the property or consideration the commissioner considers appropriate;
 - (b) have a valuation made of any property or consideration;
 - (c) adopt any available valuation of the property or consideration by a valuer.
- (2) In this section:
valuer means—
 - (a) a certified practising valuer who is a member of the Australian Property Institute; or
 - (b) a person the commissioner considers suitably qualified.

12 Dictionary, new definitions*insert*

first home owner grant cap means the first home owner grant cap mentioned in section 13A.

total value of an eligible transaction—see section 13B (1).

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 28 October 2010.

2 Notification

Notified under the Legislation Act on 24 November 2010.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the First Home Owner Grant Amendment Bill 2010, which was passed by the Legislative Assembly on 16 November 2010.

Acting Clerk of the Legislative Assembly

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