

2009

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

FIRST HOME OWNER GRANT AMENDMENT BILL 2009

EXPLANATORY STATEMENT

Circulated by the authority of the Treasurer
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First Home Owner Grant Amendment Bill 2009

Summary

The amendments made by this Bill to the First Home Owner Grant Act 2000 provide the statutory requirements for the administration of the First Home Owner Boost.

Overview

The First Home Owner Boost is one measure introduced by the Australian Government to promote growth in the Australian economy. The First Home Owner Boost provides an additional \$7,000 to first home buyers purchasing an established home on or after 14 October 2008 and before 30 June 2009. First home buyers purchasing a newly constructed home will receive an additional \$14,000 on contracts signed on or after 14 October 2008 and before 30 June 2009.

To qualify for assistance, applicants must meet the eligibility requirements for the First Home Owner Grant in addition to specific eligibility requirements for the First Home Owner Boost. The amendments contained in this Bill will ensure that all legislative requirements currently in place for the First Home Owner Grant Act 2000 will apply to eligible recipients of the First Home Owner Boost. There are specific eligibility requirements for the First Home Owner Boost for the purchase of a new home, 'off the plan' purchase and for those entering into a comprehensive home building contract.

The amendments include additional definitions for a substantially renovated home and a home built to replace a demolished premises. The amendments ensure that there are appropriate compliance measures to prevent fraudulent claims for the First Home Owner Boost; and there are administrative and investigative powers to efficiently administer the First Home Owner Boost.

Commencement Date

This Bill will commence on the day after its notification day, however the legislation will apply to First Home Owner Boost payments already paid on or after 14 October 2008.

Details of the Bill

Details of the Bill are attached.



Details of the First Home Owner Grant Amendment Bill 2009

Clause 1 — Name of Act

This Act is the First Home Owner Grant Amendment Act 2009.

Clause 2 — Commencement

This Act commences on the day after its notification day.

Clause 3 — Legislation amended

This Act amends the *First Home Owner Grant Act 2000* (the FHOG Act).

Clause 4 — Amount of grant

Section 18(2) is a new section which states that section 18 (1) does not apply to an eligible transaction that would qualify for the First Home Owner Boost.

Section 18(3) is a new section that applies the transitional laws under the Legislation Act.

Example: If a contract is entered into during the effect of the law but an application is lodged after the provisions have been repealed, the transitional law still applies.

Section 18(4) states the subsection (2) and (3) and this subsection expire on a certain date.

Clause 5 — Conditions generally

Section 21(2) (b) is a substitution that will allow the commissioner to impose a condition for part of the grant to be repaid. **Example** If the First Home Owner Grant and First Home Owner Boost have been paid and it is found that an applicant was not eligible for the First Home Owner Boost, the commissioner can require the repayment of the First Home Owner Boost.

Clause 6 — New division 2.5A

Division 2.5A — Amount of grant — certain eligible transactions

This is a new division

Section 24A (1) is a new section that includes new definitions and incorporates some definitions from section 13 (7). The new definitions for this section are; a contract for an ‘off the plan’ purchase, *A New Tax System (Goods and Services Tax Act 1999* (GST Act) and a definition for a new home.

Section 24A (2) is a new section that provides a definition for a substantially renovated home. The definition is taken from the GST Act. ([GST Act Link](#))

Section 24A (3) is a new section that incorporates the definition of a home built to replace demolished premises from the GST Act. ([GST Act Link](#))

Section 24B Amount of grant — certain eligible transactions

Section 24B (1) is a new section that states the various amounts that are payable in relation to an eligible transaction. For the first home owners grant the amount is \$7,000

plus if an eligible transaction qualifies for the first home owner boost the amount is \$14,000 for new homes or \$7,000 for established homes.

Section 24B (2) this new section provides for if an amount to be paid for the transaction is less than or equal to the amount of the first home owner grant, the maximum amount payable is that amount paid for the transaction.

Example If an amount of \$10,000 is paid for the transaction, the amount of the grant that will be paid is \$10,000 instead of the \$14,000.

Section 24C — First home owner boost for new homes

Section 24C (1) is a new section that provides for an eligible transaction for a purchase of a new home other than an ‘off the plan’ purchase is a contract that is made on or after 14 October 2008 and on or before 30 June 2009.

Section 24C (2) is a new section that determines if a contract for an ‘off the plan’ purchase qualifies for the first home owner boost for a new home. The contract must be made on or after 14 October 2008 and on or before 30 June 2009. The contract must state that the eligible transaction must be completed before 1 January 2011 or the transaction is completed before 1 January 2011. The commissioner has the discretion in exceptional circumstances, (that is circumstances beyond the parties’ control) to extend the date for completion.

Section 24C (3) is a new section in relation to comprehensive building contracts for a new home and sets out what qualifies these transactions for the first home owner boost. The contract must be made on or after 14 October 2008 and on or before 30 June 2009. The foundations for the home must begin within 26 weeks after the date the contract is made and the building work must be completed within 18 months after the date the foundations are laid. The commissioner has the discretion in exceptional circumstances, (that is circumstances beyond the parties’ control) to extend the time for the laying of the foundations.

Section 24C (4) is a new section for owner builders who enter into an eligible transaction for a new home. The commencement date of the eligible transaction must be on or after 14 October 2008 and on or before 30 June 2009. The transaction must be completed within 18 months after the commencement date. The commissioner has the discretion to extend the timeframe for which the transaction must be completed. The circumstances that cause the delay in completion must be caused by circumstances beyond the control of the owner builder.

Section 24C (5) is a new section that contains anti-avoidance provisions to allow the commissioner power to determine whether a contract made on or after 14 October 2008 replaces a contract made prior to 14 October 2008; and is for the purchase of the same home; or is a comprehensive building contract to build the same or substantially similar home, is not eligible for the first home owner boost.

Section 24D — First home owner boost for established homes

Section 24D (1) this is a new section that states that an established home is not a new home within the definition of a new home and that the contract must be entered into on or after 14 October 2008 and on or before 30 June 2009.

Section 24D (2) is a new section that has anti-avoidance provisions that allows the commission to determine that for established homes a transaction is not eligible for the first home owner boost if it replaces a contract made on or before 14 October 2008 and the replaced contract is a contract for the purchase of the same home.

Section 24E — Validating payment of grants for certain eligible transactions this section validates transactions that have occurred prior to the commencement of the First Home Owner Grant Amendment Act 2009.

Section 24F — Transitional Regulations this section delegates legislative power to the Executive to make transitional regulations so that unanticipated issues can be addressed after the Bill takes effect. Not all issues requiring transitional provisions can be identified in advance of the Bill. Accordingly, this provision allows the Executive to make transitional regulations where it considers any matter is not, or is not adequately or appropriately, dealt within this part as would enable any avoidance issues that may arise.

Section 24G — Transitional effect- Legislation Act, s 88 this section provides that the division (excluding s24F) is not affected because the law is repealed. This is in accordance with s88 of the Legislation Act.

Section 24H — Expiry –div 2.5A etc this section provides a list of dictionary definitions that expire on 1 July 2013.