



New South Wales

First Home Owner Grant Amendment Act 2002 No 9

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First Home Owner Grant Amendment Act 2002 No 9

Act No 9, 2002

An Act to amend the *First Home Owner Grant Act 2000* to make further provision with respect to the first home owner grant scheme; and for other purposes.
[Assented to 22 April 2002]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *First Home Owner Grant Amendment Act 2002*.

2 Commencement

This Act commences on the date of assent.

3 Amendment of First Home Owner Grant Act 2000 No 21

The *First Home Owner Grant Act 2000* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Section 13A

Omit the section. Insert instead:

13A Special eligible transactions

- (1) Subject to subsection (6), an eligible transaction that is a contract for the purchase of a home (other than a contract for an “off-the plan” purchase) is a *special eligible transaction* if:
 - (a) the home is a new home, and
 - (b) the contract is made after 8 March 2001 and before 1 July 2002.
- (2) Subject to subsection (6), an eligible transaction that is a comprehensive home building contract for a new home is a *special eligible transaction* if:
 - (a) the contract is made after 8 March 2001 and before 9 October 2001, and
 - (b) the building work starts within 16 weeks after the contract is made, or any longer period the Chief Commissioner may allow for delay caused by circumstances beyond the control of the parties, and
 - (c) the contract states that the eligible transaction must be completed within 12 months after the building work is started or, in any other case, the eligible transaction is completed within 12 months after the building work is started.
- (3) Subject to subsection (6), an eligible transaction that is a comprehensive home building contract for a new home is also a *special eligible transaction* if:
 - (a) the contract is made after 8 October 2001 and before 1 July 2002, and

- (b) the building work starts within 26 weeks after the contract is made, or any longer period the Chief Commissioner may allow for delay caused by circumstances beyond the control of the parties, and
 - (c) the contract states that the eligible transaction must be completed within 18 months after the building work is started or, in any other case, the eligible transaction is completed within 18 months after the building work is started.
- (4) An eligible transaction that is the building of a new home by an owner builder is a ***special eligible transaction*** if:
 - (a) the commencement date of the eligible transaction is after 8 March 2001 and before 9 October 2001 and the transaction is completed before 1 May 2003, or
 - (b) the commencement date of the eligible transaction is after 8 October 2001 and before 1 January 2002 and the transaction is completed before 1 January 2004, or
 - (c) the commencement date of the eligible transaction is after 31 December 2001 and before 1 July 2002 and the transaction is completed before 1 July 2004.
- (5) Subject to subsection (6), an eligible transaction that is a contract for an “off-the-plan” purchase of a new home is a ***special eligible transaction*** if:
 - (a) the contract is made after 8 March 2001 and before 9 October 2001 and either:
 - (i) the contract states that the eligible transaction must be completed before 1 May 2003, or
 - (ii) in any other case—the eligible transaction is completed before 1 May 2003, or
 - (b) the contract is made after 8 October 2001 and before 1 January 2002 and either:
 - (i) the contract states that the eligible transaction must be completed before 1 January 2004, or
 - (ii) in any other case—the eligible transaction is completed before 1 January 2004, or

- (c) the contract is made after 31 December 2001 and before 1 July 2002 and either:
 - (i) the contract states that the eligible transaction must be completed before 1 July 2004, or
 - (ii) in any other case—the eligible transaction is completed before 1 July 2004.
- (6) A eligible transaction that is a contract is not a special eligible transaction if the Chief Commissioner is satisfied that:
 - (a) the contract replaces a contract made before 9 March 2001, 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.
- (7) For the purposes of subsections (2) and (3), building work starts when laying the foundations for the home begins.
- (8) In this section:

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 subdivision of land.

new home means a home that has not been previously occupied or sold as a place of residence, and includes a substantially renovated home and a home built to replace demolished premises.
- (9) For the purposes of this section, a home is a ***substantially renovated home*** if:
 - (a) the sale of the home is, under the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth, a taxable supply as a sale of new residential premises within the meaning of section 40-75 (1) (b) (Meaning of new residential premises), and
 - (b) the home, as renovated, has not been previously occupied or sold as a place of residence.
- (10) For the purposes of this section, a home is a ***home built to replace demolished premises*** if:

- (a) except for an eligible transaction that is a comprehensive home building contract for a home or the building of a home by an owner builder—the sale of the home is, under the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth, a taxable supply as a sale of new residential premises within the meaning of section 40-75 (1) (c), and
- (b) for an eligible transaction that is a comprehensive home building contract for a home or the building of a home by an owner builder—the home is, under the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth, new residential premises within the meaning of section 40-75 (1) (c), and
- (c) the home, as built to replace the demolished premises, has not been previously 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.

[2] Section 18 Amount of grant

Omit section 18 (2).

[3] Section 18A

Insert after section 18:

18A Amount of grant for special eligible transactions

- (1) The amount of the first home owner grant for a special eligible transaction is the amount payable under this section instead of the amount payable under section 18.
- (2) If the commencement date of the special eligible transaction is after 8 March 2001 and before 1 January 2002, the amount payable is the lesser of the following:
 - (a) the consideration for the transaction,
 - (b) \$14000.

- (3) If the commencement date of the special eligible transaction is after 31 December 2001 and before 1 July 2002, the amount payable is the lesser of the following:
 - (a) the consideration for the transaction,
 - (b) \$10000.
- (4) In this section:
special eligible transaction—see section 13A.

[4] Section 44 Knowingly giving false or misleading information

Insert at the end of section 44:

- (2) A person must not, in or in relation to an application for a first home owner grant, make a statement or give any information knowing that it is false or misleading in a material particular.
Maximum penalty: 100 penalty units.

[5] Section 46A

Insert after section 46:

46A Recovery from third parties

- (1) The Chief Commissioner may require any of the following persons, instead of the grant recipient, to pay any recoverable amount that is payable but remains unpaid:
 - (a) a person by 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 on account of some other person for payment to the grant recipient,
 - (d) a person having authority from some other person to pay money to the grant recipient.
- (2) The Chief Commissioner's requirement is to be made by notice in writing.
- (3) A copy of the notice must be served on the grant recipient.

- (4) The amount of money required to be paid to the Chief Commissioner is:
- (a) if the amount of the money so held or due or authorised to be paid does not exceed the amount payable by the grant recipient to the Chief Commissioner—all the money, or
 - (b) if the amount of the money exceeds the amount so payable—sufficient money to pay the amount so payable.
- (5) The money must be paid to the Chief Commissioner on receipt of the notice, or when the money is held by the person and becomes due to the grant recipient, or by the end of such period (if any) as may be specified by the Chief Commissioner, whichever is the later.
- (6) A person subject to a requirement of the Chief Commissioner under this section must comply with the requirement.
- Maximum penalty: 100 penalty units.
- (7) A person who makes a payment in accordance with this section is taken to be acting under the authority of the grant recipient and of all other persons concerned and is indemnified by this section in respect of the payment.
- (8) If, after a person is given a notice under this section by the Chief Commissioner, the whole or a part of the amount is paid by another person, the Chief Commissioner must promptly notify the person to whom the notice is given of the payment and the notice is taken to be amended accordingly.
- (9) In this section:
- 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.

recoverable amount means:

- (a) in relation to an applicant (or former applicant) for a first home owner grant, the following amounts:
 - (i) an amount that the applicant (or former applicant) is required to repay under the conditions of the grant or by a requirement of the Chief Commissioner under this Act,
 - (ii) the amount of any penalty imposed on the applicant (or former applicant) by the Chief Commissioner under this Act, or
- (b) in relation to any other person—an amount the person is required to repay under section 45 (4).

[6] Schedule 1 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

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[7] Schedule 1, Part 3

Insert after Part 2:

Part 3 Provisions consequent on enactment of First Home Owner Grant Amendment Act 2002

5 Validation of payment of grants

The payment of an amount as a first home owner grant before the commencement of this clause, and anything done under this Act, is validated to the extent that it would have been valid if this Act (as amended by Schedule 1 [1]–[3] to the *First Home Owner Grant Amendment Act 2002*) had been in force when the payment was made or the thing was done.

[Second reading speech made in—
Legislative Assembly on 20 March 2002
Legislative Council on 10 April 2002]

BY AUTHORITY