Queensland

First Home Owner Grant and Other Home Owner Grants Act 2000

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First Home Owner Grant and Other Home Owner Grants Act 2000

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First Home Owner Grant and Other Home Owner Grants Act 2000

An Act to encourage and help home ownership, and to offset the effect of the GST on home ownership, by establishing a scheme for the payment of grants to first home owners, and to provide for a scheme for the payment of other particular grants to home owners

Part 1 Preliminary

1 Short title

This Act may be cited as the *First Home Owner Grant and Other Home Owner Grants Act 2000*.

2 Commencement

This Act commences on 1 July 2000.

Part 2 Interpretation

Division 1 General

3 Definitions

The dictionary in the schedule defines particular words used in this Act.

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Division 2 Basic concepts for first home owner grants

3A Application of division

This division applies in relation to first home owner grants.

4 Meaning of *eligibility criteria*

The ***eligibility criteria*** are the criteria, under part 3, division 2, for deciding whether an applicant for a first home owner grant is eligible for the grant.

5 Meaning of *eligible transaction*

(1) An ***eligible transaction*** is—

(a) a contract made on or after 1 July 2000 for the purchase of a new home in the State; or

(b) a comprehensive home building contract made by the owner of land in the State, or a person who will on completion of the contract be the owner of land in the State, to have a new home built on the land, if the contract is made on or after 1 July 2000; or

(c) the building of a new home in the State by an owner builder if the building work starts on or after 1 July 2000.

(2) Also, each of the following is an ***eligible transaction***—

(a) a contract made on or after 1 July 2000 but before 11 October 2012 for the purchase of a home, other than a new home, in the State;

(b) a comprehensive home building contract made by the owner of land in the State, or a person who will on completion of the contract be the owner of land in the State, to have a home, other than a new home, built on the land, if the contract is made on or after 1 July 2000 but before 11 October 2012;

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(c) the building of a home, other than a new home, in the State by an owner builder if the building work starts on or after 1 July 2000 but before 11 October 2012.

(3) For subsections (1)(a) and (2)(a), a contract is a contract for the purchase of a new home or other home if the contract is a contract for the acquisition of a relevant interest in land—

(a) on which a new home or other home is built; or

(b) on which a new home or other home is to be built, before completion of the contract, by or for the vendor and at the expense of the vendor.

(4) However, a contract is not an eligible transaction if the commissioner is satisfied it forms part of a scheme to circumvent limitations on, or requirements affecting, eligibility or entitlement to a first home owner grant.

(5) Unless satisfied to the contrary, the commissioner must presume the existence of a scheme mentioned in subsection (4) if—

(a) for a contract to purchase a new home or other 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 home building contract—either party had a right or option granted before 1 July 2000 to require the other to enter into the contract.

(6) Also, a transaction is not an eligible transaction if the consideration for the transaction is $750,000 or more.

(7) Also, a contract mentioned in subsection (1)(a) or (2)(a) is not an eligible transaction if the total of the following—

(a) the unencumbered value of the new home or other home;

(b) the unencumbered value of the relevant interest in the land, on which the new home or other home is built or to be built, at the commencement date for the contract;

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is $750,000 or more.

(8) Also, a contract mentioned in subsection (1)(b) or (2)(b) to have a new home or other home built on land is not an eligible transaction if the total of the following—

(a) the consideration for the transaction;

(b) the unencumbered value of the land at the commencement date for the contract;

is $750,000 or more.

(9) Also, a transaction mentioned in subsection (1)(c) or (2)(c) is not an eligible transaction if the total of the following—

(a) the consideration for the transaction;

(b) the unencumbered value of the land, on which the new home or other home is to be built, at the commencement date for the transaction;

is $750,000 or more.

6 Meaning of *home* and *new home*

(1) A ***home*** is a building, fixed to land, that—

(a) may lawfully be used as a place of residence; and

(b) is a suitable building for use as a place of residence.

(2) A ***new home*** is a home that—

(a) has not been previously occupied or sold as a place of residence; or

(b) is a substantially renovated home.

(3) For subsection (2)(b), a home is a substantially renovated home if—

(a) the home is the subject of a contract for the purchase of the home; and

(b) the sale of the home under the contract is, under the *A New Tax System (Goods and Services Tax) Act 1999* (Cwlth), a taxable supply as a sale of new residential

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premises as defined under section 40-75(1)(b) of that Act; and

(c) the home, as renovated, has not been previously occupied or sold as a place of residence.

7 Meaning of *home owner* or *owner* of a home

A person is a ***home owner*** or ***owner*** of a home if the person has a relevant interest in the land on which the home is built.

8 Meaning of *relevant interest*

(1) A ***relevant interest*** in land is—

(a) an estate in fee simple in the land; or

(b) a life estate in the land; or

(c) a perpetual lease of the land granted by the Commonwealth or the State; or

(d) a leasehold interest in the land granted by the Commonwealth or the State that may be converted into an estate in fee simple under the terms of the lease or the Act under which the lease is granted; or

(e) a term lease for pastoral purposes granted under the *Land Act 1994*; or

(f) an interest as purchaser under—

(i) a contract for the purchase from the Commonwealth or the State, or any Commonwealth or State instrumentality or authority, of an estate in fee simple in the land by instalments; or

(ii) an instalment contract under the *Property Law Act 1974*, part 6, division 4, for the purchase of an estate in fee simple in the land; or

(g) a licence or right of occupancy granted by the Commonwealth or the State, or any Commonwealth or State instrumentality or authority, that gives, in the

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commissioner's opinion, the licensee or the holder of the right reasonable security of tenure; or

(h) 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 specified home owned by the company; and

(ii) the home was built before the holder of the interest acquired the interest or entered into an agreement to acquire the interest; and

(iii) the value of the shares is not less than the value of the company's interest in the home; or

(i) another interest declared by regulation to be a relevant interest.

Note—

Also, see the schedule, definition *residential property* and section 14.

(2) However—

(a) an interest is not a relevant interest at a particular time unless the holder of the interest has, or will have within 1 year after that time, a right to immediate occupation of the land; and

(b) an interest is not a relevant interest in the hands of a person who holds it subject to a trust.

(3) A regulation under subsection (1)(i) may declare an interest to be a relevant interest in land even though the interest may not be recognised at law or in equity as an interest in land.

(4) If a person holds an interest in land on trust as guardian for a person under a legal disability and the interest would be a relevant interest if it were not for subsection (2)(b)—

(a) the person under the legal disability is taken to be the person who holds a relevant interest in the land; and

(b) the guardian is taken not to hold the interest.

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8A Meaning of *unencumbered value*

(1) The ***unencumbered value*** of property is the value of the property determined without regard to—

(a) any encumbrance to which the property is subject, whether contingently or otherwise; or

(b) any arrangement—

(i) the parties to which are not dealing with each other at arm's length; and

(ii) that results in the reduction of the value of the property; or

(c) any arrangement for which a significant purpose of any party to the arrangement was, in the commissioner's opinion, the reduction of the value of the property.

(2) Also, the ***unencumbered value*** of property held by a person on trust as guardian for another person who is under a legal disability must be determined without regard to the liabilities of the trust, including the liability to indemnify the trustee.

(3) In this section—

property means—

(a) a home; or

(b) land; or

(c) a relevant interest in land.

9 Meaning of *spouse*

(1) Subject to subsections (2) to (6), a ***spouse*** is a person who is—

(a) married; or

(b) a de facto partner; or

Note—

See the *Acts Interpretation Act 1954*, section 32DA.

(c) a civil partner.

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(2) A person is a de facto partner of another person only if they are living together as a couple on a genuine domestic basis within the meaning of the *Acts Interpretation Act 1954*, section 32DA, and, for at least 2 years, have so lived together as a couple.

(3) Subsection (4) applies if the commissioner is satisfied, when deciding an application for a first home owner grant, that—

(a) an applicant for the grant—

(i) is married but is living apart from the person to whom the applicant is married; or

(ii) is in a registered relationship but is living apart from the person with whom the applicant is in a civil partnership; and

(b) the applicant and the person mentioned in paragraph (a)(i) or (ii) have no intention of again living together as a couple.

(4) The person to whom the applicant is married, or with whom the applicant is in a civil partnership, must not be regarded as the applicant's spouse.

(5) Subsection (6) applies if the commissioner is satisfied, when deciding an application for a first home owner grant, an applicant for the grant—

(a) is living apart from the person who, under this section, would otherwise be the applicant's de facto partner; and

(b) they intend to again live together as a couple on a genuine domestic basis within the meaning of the *Acts Interpretation Act 1954*, section 32DA.

(6) The person must be regarded as the applicant's spouse.

(7) This section applies despite the *Acts Interpretation Act 1954*, section 32DA(6).

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Part 3 First home owner grants

Division 1A Preliminary

9A Application of part

This part applies in relation to first home owner grants.

Division 1 Entitlement to grant

10 When grant is payable

(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.

Note—

For authorisation of payment of the grant before the completion of the eligible transaction, see section 19(2).

(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.

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Division 2 Eligibility criteria—applicants

11 Criterion 1—Applicant to be a natural person and at least 18 years of age

(1) An applicant for a first home owner grant must be—

(a) a natural person; and

(b) at least 18 years of age at the commencement date for the eligible transaction.

(2) The commissioner may exempt an applicant from the requirement in subsection (1)(b) if the commissioner is satisfied—

(a) the applicant will comply with criterion 5 as applying to the applicant under section 15; and

(b) the application does not form part of a scheme to circumvent limitations on, or requirements affecting, eligibility for or entitlement to a first home owner grant.

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

(1) Subject to subsection (2), an applicant for a first home owner grant must be an Australian citizen or a permanent resident.

(2) If an application is made by joint applicants and 1 of the applicants is an Australian citizen or a permanent resident, it is not necessary for the other or others to be Australian citizens or permanent residents.

13 Criterion 3—Applicant or applicant's spouse must not have received an earlier grant

(1) An applicant is ineligible if—

(a) the applicant or the applicant's spouse has been a party to an earlier application under this Act or a corresponding law; and

(b) a grant was paid on the application.

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(2) However, an applicant is not ineligible if—

(a) the grant was later paid back; and

(b) the basis for the repayment of the grant was a failure to satisfy section 10(1); and

(c) any penalty amount payable under section 47 was also paid in relation to the earlier application.

14 Criterion 4—Applicant or applicant's spouse must not have had relevant interest in residential property

(1) An applicant is ineligible if the applicant or applicant's spouse has, before 1 July 2000, held—

(a) a relevant interest in residential property in Queensland; or

(b) an interest in residential property in another State that is a relevant interest under a corresponding law of that State.

(2) However, the applicant is not ineligible if—

(a) the relevant interest is an interest as purchaser of an estate in fee simple in land under a contract mentioned in section 8(1)(f); and

(b) the contract was terminated within 1 year after the contract was entered into; and

(c) the applicant or applicant's spouse did not acquire an estate in fee simple in the land.

(3) For subsection (1), in deciding whether an applicant held a relevant interest, under 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, must be disregarded.

(4) An applicant is ineligible if the applicant or the applicant's spouse has, on or after 1 July 2000 and before the date on which the application is made, held an interest in property (other than the property to which the application relates) used

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at any time on or after 1 July 2000 as the residence of the applicant or the applicant's spouse, being—

(a) a relevant interest in residential property in Queensland; or

(b) an interest in residential property in another State that is a relevant interest under the corresponding law of that State.

(5) However, for subsection (4), the applicant or the applicant's spouse is taken not to have used the property as the residence of the applicant or the applicant's spouse 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) because of a failure to satisfy criterion 5 as applying to the applicant under section 15 in relation to the earlier application, the applicant repaid the grant.

15 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 or a longer period approved by the commissioner.

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(4) The commissioner may exempt an applicant from the residence requirement under 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 residence requirement; and

(c) the commissioner is satisfied there are good reasons to exempt the applicant from the residence requirement.

(5) The commissioner may give an approval or exemption under subsection (2), (3) or (4) at any time, even if the period to which the approval or exemption relates has ended.

Division 3 Application for grant

16 Application for grant

(1) An application for a first home owner grant must be made to the commissioner or an agent of the commissioner.

(2) The application must be—

(a) in the approved form; and

(b) supported by the information required by the commissioner.

(3) The application may only be made within a period (the ***application period***)—

(a) starting 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.

(4) However, the commissioner may allow an application to be made before or after the application period.

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17 All interested persons to join in application

(1) All interested persons must be applicants.

(2) For subsection (1), 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, other than a person prescribed under a regulation.

18 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 deciding eligibility, the person under the legal disability must be regarded as the applicant.

Division 4 Decision on application

19 Commissioner to decide applications

(1) If the commissioner is satisfied 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 the grant before the completion of the eligible transaction if the commissioner is satisfied it is appropriate in particular circumstances.

20 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) either—

(i) for a new home eligible transaction—$15,000; or

(ii) for another eligible transaction—$7000.

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(2) In this section—

new home eligible transaction means an eligible transaction mentioned in section 5(1).

21 Payment of grant

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

(2) A first home owner grant must be paid to—

(a) the applicant; or

(b) someone else to whom the applicant directs in writing the grant be paid.

(3) If the applicant requests, the commissioner may apply the amount of a first home owner grant, or part of the amount, towards a liability for State taxes, fees or charges.

22 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 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 applicants 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) For subsection (2), the relevant date is the earlier of the following—

(a) the end of the period allowed for compliance with the residence requirements;

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(b) the date on which it first becomes apparent that the residence requirements will not be complied with during the period allowed for compliance.

(4) For a joint application, each applicant is individually liable to comply with the requirements under subsection (2)(a) and (b) but compliance by any 1 or more of them must be regarded as compliance by both or all.

(5) A person must not, without reasonable excuse, fail to comply with a condition mentioned in subsection (2).

Maximum penalty—40 penalty units.

22A Repayment of grant after completion of particular transactions

(1) This section applies if—

(a) a first home owner grant is paid before the completion of a relevant transaction; and

(b) on completion of the transaction—

(i) the unencumbered value of a new home or other home the subject of the transaction results in the transaction not being an eligible transaction under section 5(7); or

(ii) the consideration for the transaction results in the transaction not being an eligible transaction under section 5(8) or (9).

(2) The applicant for the grant must within 28 days after completion of the transaction—

(a) give written notice to the commissioner that the transaction is not an eligible transaction; and

(b) repay the amount of the grant.

Maximum penalty—40 penalty units.

(3) For a joint application, each applicant is individually liable to comply with the requirements under subsection (2)(a) and (b),

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but compliance by any one or more of them must be regarded as compliance by both or all.

(4) In this section—

relevant transaction means—

(a) a contract mentioned in section 5(1)(b) or (2)(b) to have a new home or other home built on land; or

(b) a transaction mentioned in section 5(1)(c) or (2)(c); or

(c) a contract mentioned in section 5(3)(b).

23 Conditions generally

(1) The commissioner may authorise the payment of a first home owner grant on the reasonable conditions the commissioner considers appropriate.

(2) A condition imposed by the commissioner, under this section or another provision of this Act, may require a person on whose application the first home owner grant is paid—

(a) to give notice of non-compliance with the condition within a period stated in the condition; and

(b) to repay 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 1 or more of them must be regarded as compliance by both or all.

(4) A person must not, without reasonable excuse, fail to comply with a condition imposed by the commissioner, under this section or another provision of this Act.

Maximum penalty—40 penalty units.

24 Death of applicant

(1) An application for a first home owner grant does not lapse because an applicant dies before the application is decided.

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(2) If an applicant dies before the application is decided, the following provisions apply—

(a) if the deceased was 1 of 2 or more applicants and 1 or more applicants survive—the application must be dealt with as if the surviving applicants were the sole applicants;

(b) if paragraph (a) does not apply—a first home owner grant, if payable on the application, must be paid to the deceased's personal representative.

(3) Subsection (4) applies if—

(a) a deceased applicant for a first home owner grant had not, when the applicant died, complied with criterion 5, as applying to the applicant under section 15 immediately before the applicant's death; and

(b) the commissioner is satisfied the applicant intended to comply with the criterion.

(4) The deceased applicant is taken to have complied with criterion 5.

25 Notice 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 written notice of the decision.

(2) If the decision authorises the payment of a first home owner grant without conditions, 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 notice must state the following—

(a) the reasons for the decision;

(b) the person may, within 60 days after receiving the notice, object to the decision;

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(c) how to object.

Note—

See part 5.

Division 5 Special and regional eligible transactions

25AA Definitions for div 5

In this division—

period 1 transaction means an eligible transaction the commencement date for which is between 14 October 2008 and 30 June 2009, both dates inclusive.

period 2 transaction means an eligible transaction the commencement date for which is between 1 July 2009 and 30 September 2009, both dates inclusive.

period 3 transaction means an eligible transaction the commencement date for which is between 1 October 2009 and 31 December 2009, both dates inclusive.

25B Meaning of *special eligible transaction* for div 5

(1) A ***special eligible transaction*** is an eligible transaction the commencement date for which is between 14 October 2008 and 31 December 2009, both dates inclusive, that is—

(a) a contract for the purchase of a home; or

(b) a comprehensive home building contract for a new home if—

(i) the building work starts within the prescribed start period or within the longer period the commissioner allows in particular circumstances; and

(ii) the contract states the building work must be completed within the prescribed building period or,

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if the contract does not state a completion date for the building work, it is completed—

(A) within the prescribed building period; or

(B) within the longer period the commissioner allows in particular circumstances; or

(c) the building of a new home by an owner builder if the eligible transaction is completed within the prescribed building period or within the longer period the commissioner allows in particular circumstances.

(2) However, an eligible transaction mentioned in subsection (1)(a) that is a contract to purchase a new home on a proposed lot on an unregistered plan of subdivision of land is a special eligible transaction only if the contract states the building work must be completed before the prescribed completion date or, if the contract does not state a completion date for the building work, it is completed before the prescribed completion date.

(3) Also, an eligible transaction that is a contract is not a special eligible transaction if the commissioner is satisfied the contract forms part of a scheme to circumvent limitations on, or requirements affecting, eligibility or entitlement to a first home owner grant for a special eligible transaction.

(4) Unless satisfied to the contrary, the commissioner must presume the existence of a scheme mentioned in subsection (3) if the contract replaces a contract made before 14 October 2008 that is—

(a) a contract to purchase the same or substantially similar home; or

(b) a comprehensive home building contract to build the same or a substantially similar home.

(5) For this section, building work—

(a) starts when laying the foundations for the home starts; and

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(b) is completed when the building is ready for occupation as a home and any completion requirements prescribed under a regulation are complied with.

(6) In this section—

prescribed building period, for building work, means the period starting on the date the work is started and ending 18 months after it is started.

prescribed completion date—

(a) for a period 1 transaction—31 December 2010; or

(b) for a period 2 transaction—31 March 2011; or

(c) for a period 3 transaction—30 June 2011.

prescribed start period, for building work, means the period starting on the commencement date and ending 26 weeks after that date.

25BA Meaning of *regional eligible transaction* for div 5

(1) A ***regional eligible transaction*** is an eligible transaction the commencement date for which is between 1 June 2010 and 30 June 2011, both dates inclusive, if—

(a) the transaction is—

(i) a contract for the purchase of a new home; or

(ii) a comprehensive home building contract for a new home; or

(iii) the building of a new home by an owner builder; and

(b) on the commencement date for the transaction, the land on which the home is or will be located is wholly outside the SEQ region.

(2) However, an eligible transaction that is a contract is not a regional eligible transaction if the commissioner is satisfied the contract forms part of a scheme to circumvent limitations on, or requirements affecting, eligibility or entitlement to a first home owner grant for a regional eligible transaction.

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(3) Unless satisfied to the contrary, the commissioner must presume the existence of a scheme mentioned in subsection (2) if the contract replaces a contract made before 1 June 2010, and the contract is—

(a) to purchase the same or a substantially similar home; or

(b) a comprehensive home building contract to build the same or a substantially similar home.

(4) In this section—

SEQ region means the local government areas of the following local governments—

- Brisbane City Council
- Gold Coast City Council
- Ipswich City Council
- Lockyer Valley Regional Council
- Logan City Council
- Moreton Bay City Council
- Redland City Council
- Scenic Rim Regional Council
- Somerset Regional Council
- Sunshine Coast Regional Council.

25C Amount of grant

(1) Despite section 20, the amount of a first home owner grant for an eligible transaction that is a special eligible transaction for a new home is the lesser of the following—

(a) the consideration for the transaction;

(b) for—

(i) a period 1 transaction—$21,000; or

(ii) a period 2 transaction—$21,000; or

(iii) a period 3 transaction—$14,000.

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(2) Despite section 20, the amount of a first home owner grant for an eligible transaction that is a special eligible transaction for a home, other than a new home, is the lesser of the following—

(a) the consideration for the transaction;

(b) for—

(i) a period 1 transaction—$14,000; or

(ii) a period 2 transaction—$14,000; or

(iii) a period 3 transaction—$10,500.

(3) Despite section 20, the amount of a first home owner grant for an eligible transaction that is a regional eligible transaction is the lesser of the following—

(a) the consideration for the transaction; or

(b) $11,000.

Division 6 Particular eligible transactions—1 July 2016 to 30 June 2018

25D Meaning of *particular eligible transaction* for div 6

(1) A ***particular eligible transaction*** is an eligible transaction mentioned in section 5(1) the commencement date for which is between 1 July 2016 and 30 June 2018, both dates inclusive.

(2) However, an eligible transaction that is a contract is not a particular eligible transaction if the commissioner is satisfied the contract forms part of a scheme to circumvent limitations on, or requirements affecting, eligibility or entitlement to a first home owner grant for a particular eligible transaction.

(3) Unless satisfied to the contrary, the commissioner must presume the existence of a scheme mentioned in subsection (2) if the contract replaces a contract made before 1 July 2016 that is—

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(a) a contract to purchase the same or substantially similar home; or

(b) a comprehensive home building contract to build the same or a substantially similar home.

25E Amount of grant

Despite section 20, the amount of a first home owner grant for an eligible transaction that is a particular eligible transaction for a new home is the lesser of the following—

(a) the consideration for the transaction;

(b) $20,000.

Part 3A Regional home building boost grants

Division 1 Preliminary

25F Application of part

This part applies in relation to regional home building boost grants.

25G Commissioner's functions and powers

(1) The commissioner is responsible for administering the RHBBG direction.

(2) The commissioner has the power to do all things necessary or convenient to be done for performing the commissioner's function under subsection (1).

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Division 2 Entitlement to grant

25H Application for grant and when grant is payable

(1) A person who is eligible to apply for a regional home building boost grant under the RHBBG direction may apply for the grant.

(2) An application for a regional home building boost grant must comply with the RHBBG direction.

(3) An applicant for a regional home building boost grant is entitled to be paid the grant if—

(a) the applicant, or if there are 2 or more of them, each of the applicants, complies with the eligibility criteria for the grant under the RHBBG direction; and

(b) the transaction for which the grant is sought—

(i) is an eligible RHBBG transaction; and

(ii) has been completed within the meaning of the RHBBG direction.

Note—

See also section 25I(2).

(4) Only 1 regional home building boost grant is payable for the same eligible RHBBG transaction.

Division 3 Decision on application

25I Commissioner to decide applications

(1) The commissioner must authorise the payment of a regional home building boost grant if the commissioner is satisfied the grant is payable on an application for the grant.

(2) Also, if the RHBBG direction provides for the commissioner to authorise the payment of a regional home building boost grant in anticipation of the applicant for the grant complying

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with particular stated requirements, the commissioner may authorise the payment as provided for by the direction.

25J Amount of grant

The amount of a regional home building boost grant is the lesser of the following—

(a) the consideration for the eligible RHBBG transaction less the amount of a first home owner grant paid to the applicant in relation to the eligible RHBBG transaction;

(b) $5,000.

25K Payment of grant

A regional home building boost grant authorised by the commissioner must be paid—

(a) to the applicant for the grant; and

(b) in the way stated in the RHBBG direction.

25L Conditions

(1) The payment of a regional home building boost grant is subject to—

(a) the conditions stated in the RHBBG direction; and

(b) any other condition imposed by the commissioner.

(2) Without limiting subsection (1), a condition may require a person on whose application the grant was made to—

(a) give notice of non-compliance with a condition within the period stated in the condition; and

(b) repay the amount of the grant within the period stated in the condition for repaying the amount.

(3) A person must not, without reasonable excuse, fail to comply with a condition mentioned in subsection (1) or (2).

Maximum penalty—40 penalty units.

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25M Notice of decision

(1) If the commissioner decides an application for a regional home building boost grant, or decides to vary or reverse an earlier decision on an application for a regional home building boost grant, the commissioner must give the applicant written notice of the decision.

(2) If the decision is to refuse an application for a regional home building boost grant, or to vary or reverse an earlier decision on an application for a regional home building boost grant, the notice must state the following—

(a) the reasons for the decision;

(b) that the person may, within 60 days after receiving the notice, object to the decision;

(c) how to object.

Note—

See part 5.

25N Investigations and enforcement

(1) The commissioner may carry out an investigation (an ***authorised investigation***) to decide—

(a) whether an application under this Act for a regional home building boost grant has been properly made; or

(b) whether an objection to a decision made under this Act in relation to a regional home building boost grant should be upheld; or

(c) whether an applicant for a regional home building boost grant to whom the grant has been paid was eligible for the grant under the RHBBG direction; or

(d) whether a condition on which a regional home building boost grant has been paid has been complied with; or

(e) another matter reasonably related to the administration or enforcement of this Act in relation to a regional home building boost grant.

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(2) Part 4 applies in relation to the investigation and enforcement of a matter relating to a regional home building boost grant as if—

(a) a reference to a first home owner grant included a reference to a regional home building boost grant; and

(b) a reference to an applicant or former applicant included a reference to an applicant or former applicant for a regional home building boost grant; and

(c) a reference to an application included a reference to an application for a regional home building boost grant; and

(d) a reference to a home included a reference to a home within the meaning of the RHBBG direction; and

(e) a reference in section 51A(1)(b) to a contravention of a section included a contravention of section 25L(3).

Part 3B Home builder grants

Division 1 Preliminary

25O Application of part

This part applies in relation to home builder grants.

25P Commissioner's functions and powers

(1) The commissioner is responsible for administering the home builder direction.

(2) The commissioner has the power to do all things necessary or convenient to be done for performing the commissioner's function under subsection (1).

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Division 2 Entitlement to grant

25Q Application for grant and when grant is payable

(1) A person who is eligible to apply for a home builder grant under the home builder direction may apply for the grant.

(2) An application for a home builder grant must comply with the home builder direction.

(3) An applicant for a home builder grant is entitled to be paid the grant if—

(a) the applicant or, for a joint application, each of the applicants, complies with the eligibility criteria for the grant under the home builder direction; and

(b) the transaction for which the grant is sought is an eligible home builder transaction; and

(c) the relevant requirement in relation to the eligible home builder transaction has been met.

Note—

See also section 25R(2).

(4) Only 1 home builder grant is payable for the same eligible home builder transaction.

(5) In this section—

relevant requirement, in relation to an eligible home builder transaction, means—

(a) if the transaction is a contract for the purchase of a new home within the meaning of the home builder direction—the contract has been completed within the meaning of the home builder direction; or

(b) if the transaction is a comprehensive home building contract within the meaning of the home builder direction—the foundations have been laid and the first progress payment has been paid to the builder under the contract; or

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(c) if the transaction is a contract for a substantial renovation within the meaning of the home builder direction—construction under the contract has commenced and at least $150,000 of the contract price has been paid to the builder under the contract.

Division 3 Decision on application

25R Commissioner to decide applications

(1) The commissioner must authorise the payment of a home builder grant if the commissioner is satisfied the grant is payable on an application for the grant.

(2) Also, if the home builder direction provides for the commissioner to authorise the payment of a home builder grant in anticipation of the applicant for the grant complying with particular stated requirements, the commissioner may authorise the payment as provided for by the direction.

25S Amount of grant

The amount of a home builder grant is—

(a) if the contract for the eligible home builder transaction is made between 4 June 2020 and 31 December 2020, both dates inclusive—$25,000; or

(b) if the contract for the eligible home builder transaction is made between 1 January 2021 and 31 March 2021, both dates inclusive—$15,000.

25T Payment of grant

A home builder grant authorised by the commissioner must be paid—

(a) to the applicant for the grant; and

(b) in the way stated in the home builder direction.

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25U Conditions

(1) The payment of a home builder grant is subject to—

(a) the conditions stated in the home builder direction; and

(b) any other conditions imposed by the commissioner.

(2) Without limiting subsection (1), a condition may require a person on whose application the grant was made to—

(a) give notice of non-compliance with a condition within the period stated in the condition; and

(b) repay the amount of the grant within the period stated in the condition for repaying the amount.

(3) A person must not, without reasonable excuse, fail to comply with a condition mentioned in subsection (1) or (2).

Maximum penalty—40 penalty units.

25V Notice of decision

(1) If the commissioner decides an application for a home builder grant, or decides to vary or reverse an earlier decision on an application for a home builder grant, the commissioner must give the applicant written notice of the decision.

(2) If the decision is to refuse an application for a home builder grant, or to vary or reverse an earlier decision on an application for a home builder grant, the notice must state the following—

(a) the reasons for the decision;

(b) that the person may, within 60 days after receiving the notice, object to the decision;

(c) how to object.

Note—

See part 5.

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25W Investigations and enforcement

(1) The commissioner may carry out an investigation (an ***authorised investigation***) to decide—

(a) whether an application under this Act for a home builder grant has been properly made; or

(b) whether an objection to a decision made under this Act in relation to a home builder grant should be upheld; or

(c) whether an applicant for a home builder grant to whom the grant has been paid was eligible for the grant under the home builder direction; or

(d) whether a condition on which a home builder grant has been paid has been complied with; or

(e) another matter reasonably related to the administration or enforcement of this Act in relation to a home builder grant.

(2) Part 4, other than section 49, applies in relation to the investigation and enforcement of a matter relating to a home builder grant as if—

(a) a reference to a first home owner grant included a reference to a home builder grant; and

(b) a reference to an applicant or former applicant included a reference to an applicant or former applicant for a home builder grant; and

(c) a reference to an application included a reference to an application for a home builder grant; and

(d) a reference to a home included a reference to a home within the meaning of the home builder direction; and

(e) a reference in section 51A(1)(b) to a contravention of a section included a contravention of section 25U(3).

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Part 4 Authorised officers, investigations and enforcement

Division 1 Authorised officers

26 Appointment

(1) The commissioner may appoint as an authorised officer—

(a) a public service employee; or

(b) an officer or employee of the authority responsible for the administration of a corresponding law.

(2) The commissioner may appoint a person as an authorised officer only if the commissioner is satisfied the person has the necessary expertise or experience to be an authorised officer.

27 Limitation of authorised officer's powers

(1) For this Act, an authorised officer has the powers given under this Act.

(2) An authorised officer is subject to the directions of the commissioner in exercising the powers.

(3) An authorised officer's powers may be limited—

(a) under a regulation; or

(b) by notice given by the commissioner to the authorised officer.

(4) An authorised officer who is an officer or employee of an authority responsible for the administration of a corresponding law may exercise the powers of an authorised officer under this Act only in relation to a first home owner grant.

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28 Authorised officer's appointment conditions

(1) An authorised officer holds office on the conditions stated in the instrument of appointment.

(2) An authorised officer—

(a) if the appointment provides for a term of appointment—ceases holding office at the end of the term; and

(b) if the conditions of appointment provide—ceases holding office on ceasing to hold another office stated in the appointment conditions; and

(c) may resign by signed notice given to the commissioner.

29 Authorised officer's identity card

(1) The commissioner must give each authorised officer an identity card.

(2) The identity card must—

(a) contain a recent photograph of the authorised officer; and

(b) be signed by the authorised officer; and

(c) identify the person as an authorised officer; and

(d) state an expiry date.

(3) A person who ceases to be an authorised officer must return the identity card to the commissioner as soon as practicable, but within 21 days, after the person ceases to be an authorised officer, unless the person has a reasonable excuse for not returning it in the 21 days.

Maximum penalty—40 penalty units.

(4) This section does not prevent the giving of a single identity card to a person for this Act and other Acts.

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30 Production or display of authorised officer's identity card

(1) An authorised officer may exercise a power in relation to a person only if the authorised officer—

(a) first produces the authorised officer's identity card for the person's inspection; or

(b) has the authorised officer's identity card displayed so it is clearly visible to the person.

(2) However, if for any reason it is not practicable to comply with subsection (1) before exercising the power, the authorised officer must produce the identity card as soon as it is practicable.

Division 2 Investigations

Subdivision 1 Cross-border investigations

31 Commissioner may carry out investigations under corresponding laws

If asked by an authority responsible for administering a corresponding law, the commissioner may carry out an authorised investigation, to the extent it relates to a first home owner grant, for the corresponding law.

Subdivision 2 General powers on investigations

32 Powers on investigation

(1) For carrying out an authorised investigation, the commissioner may, by written notice, require a person to do one or more of the following—

(a) give the commissioner written information stated in the notice;

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(b) attend at a stated time and place before the commissioner, or a stated authorised officer, to answer questions relevant to the investigation;

(c) produce a document relevant to the investigation to the commissioner at a reasonable stated time and place.

(2) The commissioner may require information given, or to be given, under this section be verified on oath or by statutory declaration.

(3) A person must not, without reasonable excuse, fail to comply with a requirement under this section.

Maximum penalty—40 penalty units.

(4) A person who, having attended before the commissioner or officer in response to a notice under subsection (1)(b), must not fail to answer a question relevant to the investigation unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

(5) It is a reasonable excuse for a person to fail to comply with a requirement under subsection (3) to give information or produce a document or to answer a question under subsection (4) if complying with the requirement or answering the question might tend to incriminate the person.

Subdivision 3 Entry of places

33 Authorised officer's power to enter places

(1) An authorised officer may enter a place if—

(a) its occupier consents to the entry; or

(b) it is a public place and the entry is made when it is open to the public; or

(c) it is a place where a business is conducted and the entry is made when—

(i) the place is open for the conduct of business; or

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(ii) is otherwise open for entry; or

(d) the entry is authorised by warrant.

(2) For the purpose of asking the occupier of a place for consent to enter, an authorised officer may, without the occupier's consent or a warrant—

(a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or

(b) enter part of the place the authorised officer reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.

(3) For subsection (1)(c), a place of business does not include a part of the place where the person resides.

34 Entry with consent

(1) This section applies if an authorised officer intends to ask an occupier of a place to consent to the authorised officer or another authorised officer entering the place under section 33(1)(a).

(2) Before asking for the consent, the authorised officer must tell the occupier—

(a) the purpose of the entry; and

(b) that the occupier is not required to consent.

(3) If the consent is given, the authorised officer may ask the occupier to sign an acknowledgement of the consent.

(4) The acknowledgement must state—

(a) the occupier has been told—

(i) the purpose of the entry; and

(ii) that the occupier is not required to consent; and

(b) the purpose of the entry; and

(c) the occupier gives the authorised officer consent to enter the place and exercise powers under this division; and

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(d) the time and date the consent was given.

(5) If the occupier signs the acknowledgement, the authorised officer must immediately give a copy to the occupier.

(6) A court must find the occupier did not consent to an authorised officer entering the place under this subdivision if—

(a) an issue arises in a proceeding before the court whether the occupier of the place consented to the entry; and

(b) an acknowledgement is not produced in evidence for the entry; and

(c) it is not proved by the person relying on the lawfulness of the entry that the occupier consented to the entry.

35 Application for warrant

(1) An authorised officer may apply to a magistrate for a warrant for a place.

(2) The application must be sworn and state the grounds on which the warrant is sought.

(3) The magistrate may refuse to consider the application until the authorised officer gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the application to be given by statutory declaration.

36 Issue of warrant

(1) The magistrate may issue a warrant only if the magistrate is satisfied there are reasonable grounds for suspecting—

(a) there is a particular thing or activity (the ***evidence***) that may provide evidence of an offence against this Act; and

(b) the evidence is at the place, or within the next 7 days, may be at the place.

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(2) The warrant must state the following—

(a) the authorised officer may, with necessary and reasonable help and force—

(i) enter the place and any other place necessary for entry; and

(ii) exercise the authorised officer's powers under this division;

(b) the offence for which the warrant is sought;

(c) the hours of the day or night when the place may be entered;

(d) the date, within 14 days after the warrant's issue, the warrant ends;

(e) the purpose for which the warrant is issued.

37 Special warrants

(1) An authorised officer may apply for a warrant (a ***special warrant***) by phone, fax, radio or another form of communication if the authorised officer considers it necessary because of—

(a) urgent circumstances; or

(b) other special circumstances, including, for example, the authorised officer's remote location.

(2) Before applying for the special warrant, the authorised officer must prepare an application stating the grounds on which the warrant is sought.

(3) The authorised officer may apply for the warrant before the application is sworn.

(4) After issuing the special warrant, the magistrate must immediately fax a copy to the authorised officer if it is reasonably practicable to fax the copy.

(5) If it is not reasonably practicable to fax a copy to the authorised officer—

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(a) the magistrate must tell the authorised officer—

(i) what the terms of the warrant are; and

(ii) the date and time the warrant is issued; and

(b) the authorised officer must complete a form of warrant (a ***warrant form***) and write on it—

(i) the magistrate's name; and

(ii) the date and time the magistrate issued the warrant; and

(iii) the terms of the special warrant.

(6) The facsimile warrant, or the warrant form properly completed by the authorised officer, authorises the entry and the exercise of the other powers stated in the warrant issued by the magistrate.

(7) The authorised officer must, at the first reasonable opportunity, send to the magistrate—

(a) the sworn application; and

(b) if the authorised officer completed a warrant form—the completed warrant form.

(8) On receiving the documents, the magistrate must attach them to the warrant.

(9) A court must find the exercise of the power by an authorised officer was not authorised by a special warrant if—

(a) an issue arises in a proceeding before the court whether the exercise of the power was authorised by a special warrant; and

(b) the warrant is not produced in evidence; and

(c) it is not proved by the person relying on the lawfulness of the entry that the authorised officer obtained the warrant.

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38 Warrants—procedure before entry

(1) This section applies if an authorised officer named in a warrant issued under this subdivision for a place is intending to enter the place under the warrant.

(2) Before entering the place, the authorised officer must do or make a reasonable attempt to do the following things—

(a) identify himself or herself, and anyone else helping the authorised officer, to a person present at the place who is an occupier of the place by producing the authorised officer's identity card;

(b) give the person a copy of the warrant or, if the entry is authorised by a facsimile warrant or warrant form mentioned in section 37(6), a copy of the facsimile warrant or warrant form;

(c) tell the person the authorised officer is permitted by the warrant to enter the place;

(d) give the person an opportunity to allow the authorised officer immediate entry to the place without using force.

(3) However, the authorised officer need not comply with subsection (2) if the authorised officer believes on reasonable grounds that immediate entry to the place is required to ensure the effective execution of the warrant is not frustrated.

Subdivision 4 Powers of authorised officers on entry to places

39 General powers for places

(1) An authorised officer who enters a place under subdivision 3 may exercise any of the following powers—

(a) search any part of the place;

(b) inspect, examine, photograph or film a document or anything in the place;

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(c) take extracts from, and make copies of, any document in the place;

(d) take into the place any equipment and materials the authorised officer reasonably requires for exercising a power under this division;

(e) require a person in the place to—

(i) give the authorised officer reasonable help to exercise the powers mentioned in paragraphs (a) to (d); or

(ii) answer questions relevant to the investigation.

(2) When making a requirement mentioned in subsection (1)(e), the authorised officer must warn the person it is an offence to fail to comply with the requirement unless the person has a reasonable excuse.

(3) A person required to give reasonable help under subsection (1)(e)(i) or answer a question under subsection (1)(e)(ii) must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

(4) If a person is required under subsection (1)(e)(i) to give reasonable help by answering a question or producing a document, or under subsection (1)(e)(ii) to answer a question, it is a reasonable excuse if complying with the requirement might tend to incriminate the person.

Subdivision 5 General enforcement matters

40 Notice of damage

(1) This section applies if—

(a) an authorised officer damages property when exercising or purporting to exercise a power under this division; or

(b) a person (the ***other person***) acting under the direction of an authorised officer damages property.

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(2) The authorised officer must promptly give written notice of particulars of the damage to the person who appears to the authorised officer to be the owner of the property.

(3) If the authorised officer believes the damage was caused by a latent defect in the property or circumstances beyond the control of the authorised officer, contractor or other person, the authorised officer may state it in the notice.

(4) If, for any reason, it is impracticable to comply with subsection (2), the authorised officer must leave the notice in a conspicuous position and in a reasonably secure way where the damage happened.

(5) This section does not apply to damage the authorised officer reasonably believes is trivial.

(6) In subsection (2)—

owner, of property, includes the person in possession or control of it.

41 Compensation

(1) A person may claim from the commissioner the cost of repairing or replacing property damaged because of the exercise or purported exercise of a power under this division.

(2) The cost may be claimed and ordered to be paid in a proceeding—

(a) brought in a court with jurisdiction for the recovery of the amount claimed; or

(b) for an offence against this Act brought against the person claiming the amount.

(3) A court may order an amount be paid only if it is satisfied it is just to make the order in the circumstances of the particular case.

(4) A regulation may prescribe matters that may, or must, be taken into account by the court when considering whether it is just to make the order.

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42 False or misleading documents

(1) A person must not give to the commissioner or an authorised officer a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—70 penalty units.

(2) Subsection (1) does not apply to a person who, when giving the document—

(a) tells the commissioner or officer, to the best of the person's ability, how it is false or misleading; and

(b) if the person has, or can reasonably get, the correct information—gives the correct information to the commissioner or officer.

(3) In a proceeding for an offence against subsection (1), it is enough for a charge to state that the document was, without specifying which, 'false or misleading'.

43 False or misleading statements

(1) A person must not state anything to the commissioner or an authorised officer the person knows is false or misleading in a material particular.

Maximum penalty—70 penalty units.

(2) In a proceeding for an offence against subsection (1), it is enough for a charge to state that the statement was, without specifying which, 'false or misleading'.

44 Obstruction of authorised officers

(1) A person must not obstruct an authorised officer in the exercise of a power, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

(2) If a person has obstructed an authorised officer and the authorised officer decides to proceed with the exercise of the power, the authorised officer must warn the person that—

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(a) it is an offence to obstruct the authorised officer, unless the person has a reasonable excuse; and

(b) the authorised officer considers the person's conduct is an obstruction.

45 Impersonation of authorised officer

A person must not pretend to be an authorised officer.

Maximum penalty—40 penalty units.

46 Access to particular records without fee

For carrying out an authorised investigation, the commissioner may, without payment of a fee, inspect and take copies of any record relevant to the investigation that is kept by a public sector unit or local government.

Division 3 Repayments and penalties

47 Commissioner may 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 the amount was paid in error (the ***error amount***).

(2) If the error amount was paid because of a contravention of section 42 or 43 in relation to the application for the grant, the commissioner may, by written notice, impose a penalty of not more than the error amount (a ***penalty amount***).

(3) If an applicant or former applicant for a first home owner grant fails to make a repayment required under subsection (1) or the conditions of the grant, the commissioner may, by written notice impose a penalty of not more than the error amount (also a ***penalty amount***).

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(4) If the error amount was paid to a third party, the commissioner, may by written notice, require the third party to repay the amount to the commissioner.

(5) A notice under this section must state the following—

(a) the reasons for the decision to require the payment;

(b) the person may, within 60 days after receiving the notice, object to the decision;

(c) how to object.

48 Recovery of amount paid in error etc.

(1) This section applies to the following amounts—

(a) an amount an applicant or former applicant for a first home owner grant is required to repay under the conditions of the grant or under a requirement under this Act;

(b) a penalty amount imposed on an applicant or former applicant for a first home owner grant under section 47(2) or (3);

(c) an amount a third party is required, under section 47(4), to pay to the commissioner.

(2) The liability arising from a requirement to pay, or repay, an amount to which this section applies is, if the requirement attaches to 2 or more persons, joint and several.

(3) An amount to which this section applies is a debt payable to the commissioner and may be recovered in a court of competent jurisdiction.

(4) The commissioner may enter into an arrangement for payment of a liability outstanding under this section by instalments.

(5) The arrangement may include provision for the payment of interest.

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49 Charge over land

(1) This section applies if an applicant or former applicant who is liable to pay an amount to which section 48 applies has an interest in the land on which the home, for which the first home owner grant was sought, is fixed.

(2) The liability is a first charge on the applicant's interest in the land.

(2A) The charge has priority over all other encumbrances over the applicant's interest in the land.

(3) The registrar must register the charge over the land if the commissioner lodges with the registrar—

(a) a request to register the charge in the appropriate form over the land; and

(b) a certificate stating that—

(i) the amount stated in the certificate is owing in relation to the charge over the land; and

(ii) there is a charge over the land under this section.

(4) The commissioner must, as soon as practicable after payment of the amount, lodge with the registrar—

(a) a request to release the charge in the appropriate form; and

(b) a certificate stating that the amount owing in relation to the charge over the land has been paid.

(5) The registrar must register the release of the charge over the land.

(6) The fee for registration of the charge, or release of the charge, is payable by the applicant or former applicant mentioned in subsection (1).

(7) If the commissioner pays the fee mentioned in subsection (6), the commissioner may recover the amount of the fee from the applicant or former applicant liable for payment of the fee.

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49A Collection of amounts from a garnishee

(1) This section applies if—

(a) under section 48, a debt is payable by an applicant or former applicant to the commissioner; and

(b) the commissioner reasonably believes a person (the ***garnishee***)—

(i) holds or may receive an amount for or on account of the applicant or former applicant; or

(ii) is liable or may become liable to pay an amount to the applicant or former applicant; or

(iii) has authority to pay an amount to the applicant or former applicant.

(2) Subsection (1)(b) applies even though the applicant or former applicant's entitlement to the amount may be subject to unfulfilled conditions.

(3) The commissioner may, by written notice given to the garnishee (the ***garnishee notice***), require the garnishee to pay a stated amount (the ***garnishee amount***) to the commissioner by a stated date.

(4) Without limiting subsection (3), the garnishee notice may require the garnishee to pay to the commissioner an amount out of each payment the garnishee is liable, or from time to time becomes liable, to make to the applicant or former applicant.

(5) However, subsection (6) applies if, on the date for payment under the garnishee notice, the garnishee amount is not held for, or is not liable to be paid to, the applicant or former applicant by the garnishee.

(6) The garnishee notice has effect as if the date for payment were immediately after the date the amount is held for, or is liable to be paid to, the applicant or former applicant by the garnishee.

(7) The garnishee amount must not be more than the applicant's or former applicant's debt.

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(8) The garnishee must comply with the garnishee notice unless the garnishee has a reasonable excuse.

Maximum penalty—40 penalty units.

(9) The commissioner must give to the applicant or former applicant—

(a) a copy of the garnishee notice; and

(b) details in writing of the applicant's or former applicant's debt to which the notice relates.

49B Duration of garnishee notice

The garnishee notice has effect until the garnishee amount is paid or the commissioner, by written notice given to the garnishee, withdraws the notice.

49C Effect of discharge of debt on garnishee notice

(1) This section applies if—

(a) the applicant's or former applicant's debt to which the garnishee notice relates is discharged, whether completely or partly, before the date for payment of the garnishee amount; and

(b) the discharge affects the amount to be recovered from the garnishee.

(2) The commissioner must give written notice to the garnishee and the applicant or former applicant—

(a) informing them of the extent of the discharge of the debt; and

(b) stating the amount payable under the garnishee notice is reduced accordingly; and

(c) if the applicant's or former applicant's debt is fully discharged—withdrawing the garnishee notice.

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49D Effect of payment by garnishee

If the garnishee pays an amount to the commissioner under a garnishee notice, the garnishee—

(a) is taken to have acted under the authority of the applicant or former applicant or an authority mentioned in section 49A(1)(b)(iii); and

(b) if the garnishee is under an obligation to pay an amount to the applicant or former applicant—is taken to have satisfied the obligation to the extent of the payment.

50 Effect of writing off liability

If all or part of an applicant's liability under section 48, including the applicant's liability to pay costs ordered by a court or QCAT, is written off under the *Financial Accountability Act 2009*, section 21, the writing off does not extinguish the applicant's liability or prevent a later proceeding against the applicant to recover the amount of the liability.

51 Penalty amounts to be alternative to prosecution

(1) This section applies if a penalty amount, including a part of a penalty amount, becomes payable under section 47 by a person because of an act or omission of the person.

(2) If a proceeding is started against the person for an offence against a provision of this Act relating to the act or omission, and the penalty amount has not been paid to the commissioner, the penalty amount is payable only if the commissioner withdraws the proceeding.

(3) If the penalty amount has been paid to the commissioner, but a proceeding is started against the person for an offence against a provision of this Act arising out of the act or omission, the penalty amount must be refunded by the commissioner.

(4) Despite subsection (3), if the commissioner withdraws the proceeding for the offence, the person again becomes liable to pay the penalty amount.

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51A Court may order repayment etc.

(1) This section applies if—

(a) a first home owner grant is paid to a person; and

(b) the person is convicted by a court for a contravention of section 22(5), 22A(2), 23(4), 42(1) or 43(1) in relation to the grant.

(2) The court may order the person to repay the grant.

(3) Also, the court may order the person to pay the commissioner twice the grant amount if it is satisfied the circumstances of the contravention form part of a scheme to circumvent limitations on, or requirements affecting, eligibility or entitlement to a first home owner grant.

(4) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or any other law.

Division 4 Legal proceedings

52 Statements in complaint

In a complaint starting a proceeding, a statement that the matter of the complaint came to the complainant's knowledge on a stated day is evidence of the matter.

53 Evidentiary certificates

A certificate purporting to be signed by the commissioner stating any of the following matters is evidence of the matter—

(a) on a stated day—

(i) a stated person was liable to pay, or paid, a stated amount; or

(ii) a stated person made, gave or executed a stated document; or

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(iii) a stated document was given to a stated person in a stated way; or

(iv) the commissioner had not received a stated document or information;

(b) a stated document is a copy of, or part of, another document.

54 Summary proceedings for offences

A proceeding for an offence against this Act must be taken in a summary way under the *Justices Act 1886*.

55 When proceedings must start

A proceeding for an offence against this Act must start within 5 years after the commission of the offence.

Part 5 Objections and reviews

Division 1 Objections

56 Lodging objection

(1) This section applies to an applicant or former applicant for a first home owner grant, regional home building boost grant or home builder grant who is dissatisfied with a decision of the commissioner—

(a) on the applicant's or former applicant's application for the grant; or

(b) to require payment of an amount under section 47 in relation to the grant.

(1A) The applicant or former applicant may lodge a written objection for the decision with the commissioner.

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(2) The grounds of objection must be stated fully and in detail in the notice.

(3) The objection must be lodged within 60 days after the objector receives notice of the decision.

(4) If the commissioner is satisfied an objector has a reasonable excuse for failing to lodge an objection within the 60 day period, the commissioner may extend the time for lodging the objection.

57 Deciding objection

(1) After considering the objection, the commissioner may—

(a) confirm the decision; or

(b) set aside the decision and substitute another decision.

(2) If the decision the subject of the objection was made by a delegate of the commissioner, the delegate must not decide the objection.

58 Notice of decision

(1) The commissioner must give written notice to the objector of the commissioner's decision on the objection.

(2) The notice must comply with the QCAT Act, section 157(2).

Division 2 Review of decision on objections

59 Right of review by QCAT

An objector who is dissatisfied with the commissioner's decision on the objection may apply, within 60 days after the objector receives notice of the commissioner's decision on the objection and as otherwise provided under the QCAT Act, to QCAT for a review of the decision.

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60 QCAT to decide review on evidence before the commissioner

(1) This section applies to a proceeding for a review by QCAT of a decision of the commissioner on an objection.

(2) QCAT must—

(a) hear and decide the review of the decision by way of a reconsideration of the evidence before the commissioner when the decision was made, unless QCAT considers it necessary in the interests of justice to allow new evidence; and

(b) decide the review of the decision in accordance with the same law that applied to the making of the original decision.

(3) The grounds on which the application for review is made are limited to the grounds of the relevant objection unless QCAT otherwise orders.

(4) If QCAT decides, under the QCAT Act, section 139, that the proceeding should be reopened, the issues in the proceeding that are reheard must be—

(a) heard and decided by way of a reconsideration of the evidence given in the proceeding for the review of the decision; and

(b) decided in accordance with the same law that applied to the making of the original decision.

(5) In this section—

new evidence means evidence that was not before the commissioner when the decision on the objection was made.

original decision means the decision of the commissioner that was the subject of the relevant objection.

relevant objection means the objection to which the decision of the commissioner relates.

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61 Representation of parties before QCAT

(1) This section applies to a party in a proceeding before QCAT relating to an application under section 59.

(2) The party may be represented by a lawyer.

Part 6 Miscellaneous provisions

65 Delegations

(1) The commissioner may delegate the commissioner's powers under this Act to an appropriately qualified officer or employee of the department.

(2) In addition, the commissioner may delegate the commissioner's powers under part 4 in relation to a first home owner grant to the authority responsible for administering a corresponding law or an appropriately qualified officer or employee of the authority.

66 Administration agreements

(1) The commissioner may, on behalf of the State, enter into an agreement with a financial institution or other person for performing functions related to administering the scheme for payment of first home owner grants established under this Act.

(2) The commissioner may, at any time, revoke the agreement.

67 Protection from liability

(1) An official is not civilly liable for an act done, or omission made, honestly and without negligence under this Act, the RHBBG direction or the home builder direction.

(2) If subsection (1) prevents a civil liability attaching to an official, the liability attaches instead to the State.

(3) In this section—

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official means—

(a) the commissioner; or

(b) an authorised officer; or

(c) an officer or employee of the department to whom the commissioner has, under section 65, delegated powers.

68 Offence to disclose confidential information

(1) This section applies to a person who—

(a) is or has been engaged in the administration of this Act, the RHBBG direction or the home builder direction, including an employee of an agent of the commissioner; or

(b) has obtained access to confidential information, whether directly or indirectly, from a person mentioned in paragraph (a).

(2) The person must not disclose confidential information acquired by the person to anyone else other than under subsection (3) or (4).

Maximum penalty—100 penalty units.

(3) The person may disclose confidential information—

(a) at the request, or with the consent of, the person to whom the information relates or someone else acting on the person's behalf; or

(b) if the disclosure is expressly permitted or required under another Act; or

(c) in connection with the administration or enforcement of—

(i) this Act, the RHBBG direction, the home builder direction or a corresponding law; or

(ii) a taxation law; or

(iii) the *First Home Saver Accounts Act 2008* (Cwlth); or

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(d) for a legal proceeding under this Act; or

(e) to the extent required to comply with the agreement between the Commonwealth and the State called 'National Partnership on HomeBuilder'.

(4) Also, if the commissioner becomes aware, from information obtained or held by the commissioner in the course of administering this Act, the RHBBG direction or the home builder direction, of a particular offence or suspected offence (whether against this Act or another law), the commissioner may disclose confidential information about the offence or suspected offence to a member of the Queensland Police Service or the Australian Federal Police for an investigation or proceeding (including for starting an investigation or proceeding).

(5) For a proceeding other than a legal proceeding under this Act, the person can not be compelled to disclose to a court or QCAT or to a party—

(a) confidential information; or

(b) whether or not the person has received particular confidential information; or

(c) the identity of the source of particular confidential information.

(6) If, under subsection (3)(c), confidential information is disclosed to another person in connection with the administration or enforcement of a law, the RHBBG direction or the home builder direction, the person must not disclose the information to anyone else other than in connection with that purpose.

Maximum penalty—100 penalty units.

(7) In this section—

confidential information means information held by the commissioner, including information given on an application under this Act, that relates to a particular application for a first home owner grant, regional home building boost grant or home builder grant.

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69 Use of information obtained under taxation laws

The commissioner may use information obtained in the administration or enforcement of a taxation law for the administration or enforcement of this Act.

69A Disqualifying arrangements for first home owner grants

(1) A disqualifying arrangement exists in relation to an application for a first home owner grant if—

(a) a related person of an applicant for the application provides or will provide financial help to the applicant, directly or indirectly, to help the applicant enter into the eligible transaction to which the application relates; and

(b) the related person has used, or will use, the home the subject of the eligible transaction, frequently or otherwise to a significant extent, in addition to any use of the home by the applicant; and

(c) the related person would not be eligible for the grant had the related person entered into the eligible transaction; and

(d) the commissioner is not satisfied that in the circumstances there are genuine family reasons for the matters mentioned in paragraphs (a) and (b).

(2) Without limiting subsection (1)(a), any of the following may be taken to be financial help provided by the related person—

(a) the related person makes a gift of money or property, whether or not the gift is enough to meet all of the applicant's obligations under the eligible transaction;

(b) the related person makes a contribution towards the cost of—

(i) the applicant complying with his or her obligations under the eligible transaction; or

(ii) maintaining the home the subject of the eligible transaction;

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(c) the related person makes a loan repayment for the applicant in relation to the eligible transaction;

(d) the related person forgives loan repayments otherwise owed by the applicant to the related person.

(3) A disqualifying arrangement exists in relation to an application for a first home owner grant if the commissioner is satisfied—

(a) there is an arrangement the sole or main purpose of which is to obtain a first home owner grant, rather than acquiring a home; and

(b) the application is made for the purposes of the arrangement.

(4) For subsection (3), the commissioner must have regard to the following—

(a) the way the eligible transaction was entered into or carried out;

(b) the nature of the connection, whether business, family or another connection, between the parties to the eligible transaction;

(c) the amount of consideration payable under the eligible transaction;

(d) the value of the home the subject of the eligible transaction;

(e) the living and family arrangements of the applicant and any related person;

(f) the financial circumstances of the applicant;

(g) the source of funds used to complete the eligible transaction and meet the costs of owning and maintaining the home the subject of the eligible transaction.

(5) Subsection (4) does not limit the matters to which the commissioner may or ought to have regard for subsection (3).

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(6) If a disqualifying arrangement exists in relation to an application for a first home owner grant the commissioner may—

(a) if the application has not yet been approved—refuse the application; or

(b) if the application was approved but the grant has not yet been paid—reverse the decision on the application and refuse to pay the grant; or

(c) if the grant has already been paid—reverse the decision on the application and act under section 47 to recover the grant as an error amount, and to recover any penalty amount imposed under the section.

(7) The commissioner must give the applicant reasons for taking action under this section.

(8) In this section—

related person, of an applicant, means—

(a) a parent, child, grandparent, sibling, uncle or aunt of the applicant; or

(b) the spouse of any person mentioned in paragraph (a).

69B Valuation or evidence of value of property

(1) For determining whether a transaction is an eligible transaction, eligible RHBBG transaction or eligible home builder transaction, the commissioner may—

(a) by notice given to a relevant person, require the person to lodge a valuation of property prepared by a registered valuer or to provide the other evidence of value the commissioner considers appropriate; or

(b) have property valued; or

(c) rely on a valuation of property prepared by a registered valuer, or other person the commissioner is satisfied is properly qualified to provide evidence of value of the property.

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(2) If the commissioner is not satisfied with the valuation or evidence lodged or provided under subsection (1)(a), the commissioner may—

(a) have the property valued; or

(b) rely on a valuation of the property prepared by a registered valuer, or another person the commissioner is satisfied is properly qualified to provide evidence of value of the property.

(3) The commissioner may recover the cost of obtaining a valuation under this section from the relevant person.

(4) In this section—

property means—

(a) in relation to a first home owner grant—

(i) a home; or

(ii) land; or

(iii) a relevant interest in land; or

(b) in relation to a regional home building boost grant—

(i) a home within the meaning of the RHBBG direction; or

(ii) land; or

(iii) an estate in fee simple in land; or

(c) in relation to a home builder grant—

(i) a home within the meaning of the home builder direction; or

(ii) land; or

(iii) an estate in fee simple in land.

registered valuer means a valuer registered under the *Valuers Registration Act 1992*.

relevant person means—

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(a) an applicant for a first home owner grant, regional home building boost grant or home builder grant in relation to the transaction; or

(b) a former applicant for a first home owner grant, regional home building boost grant or home builder grant in relation to the transaction.

70 Approved forms

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

(2) The approved form of application for a first home owner grant, or part of the form, may be required to be completed or signed by the spouse of the applicant.

70A Commissioner may arrange for use of an approved information system to make particular decisions

(1) The commissioner may approve an information system for this section.

(2) The commissioner may arrange for the use of an approved information system for any purposes for which the commissioner may make a relevant decision under this Act.

(3) A relevant decision made by the operation of an approved information system under an arrangement made under subsection (2) is taken to be a decision made by the commissioner.

(4) In this section—

approved information system means an information system approved by the commissioner under subsection (1).

electronic communication means—

(a) a communication of information in the form of data, text or images by guided or unguided electromagnetic energy; or

(b) a communication of information in the form of sound by guided or unguided electromagnetic energy, if the sound

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is processed at its destination by an automated voice recognition system.

information system means a system for generating, sending, receiving, storing or otherwise processing electronic communications.

relevant decision means a decision that does not involve the exercise of the commissioner's discretion.

71 Regulation-making power

(1) The Governor in Council may make regulations under this Act.

(2) A regulation may provide for a maximum penalty of not more than 20 penalty units for a contravention of a regulation.

Part 7 Transitional provisions for First Home Owner Grant Amendment Act 2003

72 Continuing operation of Act for particular eligible transactions

(1) This Act continues to apply in relation to a relevant application as if this Act had not been amended by the relevant provisions of the amending Act.

(2) In this section—

amending Act means the *First Home Owner Grant Amendment Act 2003*.

relevant application means an application for a first home owner grant, if the commencement date for the eligible transaction to which the application relates is a date earlier than 1 January 2004.

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relevant provisions, of the amending Act, means the provisions of the amending Act commencing on the day this section commences, other than section 5.

Part 8 Transitional provisions for Revenue and Other Legislation Amendment Act (No. 2) 2008

73 Continuing operation of Act for particular eligible transactions

(1) This Act continues to apply in relation to a relevant application as if this Act had not been amended by part 4 of the amending Act, other than sections 49 to 52, 54 (to the extent it inserts new section 74) and 55 (to the extent it inserts new definitions *new home* and *special eligible transaction*).

(2) In this section—

amending Act means the *Revenue and Other Legislation Amendment Act (No. 2) 2008*.

relevant application means an application for a first home owner grant, if the commencement date for the eligible transaction to which the application relates is a date earlier than 1 January 2010.

74 Transitional provision for particular approved form

(1) This section applies to the first publication in the gazette, on or after the commencement of this section, of a notice under the *Statutory Instruments Act 1992*, section 58(6)(a) relating to the approval or availability of a relevant form.

(2) The publication is taken to have been effective on and from 14 October 2008.

(3) In this section—

relevant form means a form for making an application for a first home owner grant for a special eligible transaction.

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special eligible transaction see section 25B.

Part 9 Transitional provisions for Revenue and Other Legislation Amendment Act 2010

75 Definition for pt 9

In this part—

amending Act means the *Revenue and Other Legislation Amendment Act 2010*.

76 Continuing operation of pre-amended s 5

Section 5 as in force immediately before its amendment by the amending Act continues to apply in relation to an application for a first home owner grant if the commencement date for the eligible transaction to which the application relates is before 31 March 2010.

77 Charge mentioned in s 49

Section 49 as in force immediately before its amendment by the amending Act continues to apply to a liability in relation to a grant the payment of which was authorised before the amendment.

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Part 10 Transitional provision for Revenue and Other Legislation Amendment Act 2011

78 Continuing operation of pre-amended s 55

(1) This section applies to an offence against this Act, if the act or omission constituting the offence happened before the commencement of this section.

(2) Without limiting the *Acts Interpretation Act 1954*, section 20, section 55 as in force before the commencement of this section continues to apply in relation to the offence.

Part 11 Transitional provisions for Fiscal Repair Amendment Act 2012

79 Continuing operation of Act for eligible transactions with commencement date before 12 September 2012

(1) This section applies in relation to an eligible transaction if the commencement date for the transaction is a date before 12 September 2012.

(2) This Act continues to apply in relation to the eligible transaction as if this Act had not been amended by the *Fiscal Repair Amendment Act 2012*, part 3, division 2.

80 Application of s 20(1)(b) to particular contracts

(1) This section applies to an eligible transaction mentioned in section 5(1)(a) or (b) made on or after 12 September 2012 if the commissioner is satisfied the transaction forms part of a scheme to obtain an increased amount of a first home owner grant under section 20 as amended by the *Fiscal Repair Amendment Act 2012*.

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(2) Unless satisfied to the contrary, the commissioner must presume the existence of a scheme mentioned in subsection (1) if the contract that is the eligible transaction replaces a contract to purchase, or a comprehensive home building contract to build, the same or substantially similar new home that was made before 12 September 2012.

(3) Despite section 20, the amount of a first home owner grant for the eligible transaction is the lesser of the following—

(a) the consideration for the transaction;

(b) $7000.

81 Continuing operation of Act for particular eligible transactions with commencement date earlier than 11 October 2012

(1) This section applies in relation to an eligible transaction if the commencement date for the transaction is on or after 12 September 2012 but before 11 October 2012.

(2) This Act as in force on 12 September 2012 continues to apply in relation to the eligible transaction as if this Act had not been amended by the *Fiscal Repair Amendment Act 2012*, part 3, division 3.

Part 12 Transitional provision for Payroll Tax Rebate, Revenue and Other Legislation Amendment Act 2015

82 Application of s 15

Section 15(5) applies in relation to an approval or exemption given by the commissioner on or after 4 July 2013.

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Part 13 Transitional provisions for Royalty Legislation Amendment Act 2020

83 Application of Act for pre-commencement applications and relevant decisions

(1) This Act applies in relation to a pre-commencement application or relevant decision as if it were an application or decision made under this Act.

(2) However, if it is an offence for a person to contravene a provision of this Act, the provision applies in relation to a pre-commencement application or relevant decision, or the grant to which the application or decision relates, only if the act or omission constituting the offence occurs wholly after the commencement.

(3) For section 56(3), an objection to a relevant decision made before the commencement must be lodged within 60 days after the commencement.

(4) In this section—

pre-commencement application means an application for a grant made under the RHBBG direction or home builder direction before the commencement.

relevant decision means a decision by the commissioner on a pre-commencement application for a regional home building boost grant or home builder grant, whether the decision is made before or after the commencement.

84 Protection from liability for particular officials

(1) An official is not civilly liable for an act done, or omission made, honestly and without negligence under the RHBBG direction or home builder direction before the commencement.

(2) In this section—

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official means—

(a) the commissioner; or

(b) an officer or employee of the department to whom the commissioner has delegated powers under the RHBBG direction or home builder direction.

85 Application of s 68 to particular information

Section 68 applies to information held by the commissioner, whether the information was given before or after the commencement.

86 References to First Home Owner Grant Act 2000

A reference in a document to the First Home Owner Grant Act 2000 may, if the context permits, be taken to be a reference to this Act.

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Schedule Dictionary

section 3

administration agreement means an agreement made under section 66.

agent, of the commissioner for an application for a first home owner grant, means a financial institution or other person with whom the commissioner has made an administration agreement.

appropriately qualified, for a person to whom a power under this Act may be delegated, includes having the qualifications, experience or standing appropriate to exercise the power.

Example of standing—

a person's classification level in the public service

approved form means a form approved under section 70.

Australian citizen see the *Australian Citizenship Act 2007* (Cwlth), section 4.

authorised investigation means—

(a) for a first home owner grant—an investigation to decide—

(i) whether an application under this Act or a corresponding law for a first home owner grant has been properly made; or

(ii) whether an objection to a decision made under this Act or a corresponding law should be upheld; or

(iii) 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

(iv) 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

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(v) another matter reasonably related to the administration or enforcement of this Act or a corresponding law; or

(b) for a regional home building boost grant—an investigation mentioned in section 25N(1); or

(c) for a home builder grant—an investigation mentioned in section 25W(1).

authorised officer means a person appointed as an authorised officer under section 26.

building includes part of a building.

commencement date, for an eligible transaction, means—

(a) for a contract for the purchase of a home or to have a home built—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 starts; or

(ii) another date the commissioner considers appropriate in the circumstances of the case.

commissioner means the Commissioner of State Revenue appointed under the *Taxation Administration Act 2001*.

completed, for an eligible transaction, means—

(a) for a contract for the purchase of a home—

(i) when 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 built—the purchaser's title is registered; or

(b) for a contract to have a home built—when the building is ready for occupation as a home and any prescribed completion requirements are complied with; or

(c) for the building of a home by an owner builder—when the building is ready for occupation as a home and any prescribed completion requirements are complied with.

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

consideration, for an eligible transaction, means—

(a) for a contract for the purchase of a home—the consideration for the purchase; or

(b) for a contract to have a home built—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.

corresponding law means an Act of another State corresponding to this Act to the extent it relates to a first home owner grant.

eligibility criteria see section 4.

eligible home builder transaction means an eligible transaction within the meaning of the home builder direction.

eligible RHBBG transaction means an eligible transaction within the meaning of the RHBBG direction.

eligible transaction see section 5.

first home owner grant means a grant payable under part 3.

garnishee, for part 4, division 3, see section 49A(1)(b).

garnishee amount, for part 4, division 3, see section 49A(3).

garnishee notice, for part 4, division 3, see section 49A(3).

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 6.

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home builder direction means the administrative direction called 'Australian Government HomeBuilder Grant—Queensland' made by the Minister and published on the department's website.

home builder grant means a grant payable under part 3B.

home owner see section 7.

new home see section 6.

obstruct includes hinder and attempt to obstruct or hinder.

occupier, of a place, includes the person apparently in charge of the place.

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

owner means—

(a) for a home—see section 7; or

(b) for land—a person who has a relevant interest in the land.

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.

particular eligible transaction, for part 3, division 6, see section 25D(1).

penalty amount see section 47(2) and (3).

period 1 transaction, for part 3, division 5, see section 25AA.

period 2 transaction, for part 3, division 5, see section 25AA.

period 3 transaction, for part 3, division 5, see section 25AA.

permanent resident means—

(a) the holder of a permanent visa as defined by the *Migration Act 1958* (Cwlth), section 30(1); or

(b) a New Zealand citizen who is the holder of a special category visa as defined by the *Migration Act 1958* (Cwlth), section 32.

place includes the following—

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(a) vacant land;

(b) premises;

(c) a vehicle;

(d) a boat;

(e) an aircraft.

premises includes the following—

(a) a building or structure of any kind;

(b) the land on which a building or structure is situated.

prescribed completion requirements, for completion of an eligible transaction, means requirements prescribed under a regulation.

public place means a place the public is entitled to use or is open to, or used by, the public, whether or not on payment of an admission fee.

regional eligible transaction, for part 3, division 5, see section 25BA.

regional home building boost grant means a grant payable under part 3A.

registrar means the registrar of titles or another person responsible for keeping a register for dealings in land.

relevant interest see section 8.

residence requirements means the following requirements—

(a) the requirement—

(i) under section 15(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 15(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;

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(b) the requirement under section 15(3) that the period of occupation required under section 15(1), or section 15(1) and (2)(a), must start within 1 year after completion of the eligible transaction or a longer period approved by the commissioner.

residential property means land in Australia that, at a particular time, has a building on it that is lawfully occupied as a place of residence or is suitable for occupation as a place of residence.

RHBBG direction means the administrative direction called 'Regional home building boost grant' made by the Minister and published on the department's website.

special eligible transaction, for part 3, division 5, see section 25B(1).

spouse see section 9.

structure includes part of a structure.

taxation law means—

(a) a law of the Commonwealth or a State about the assessment or imposition of a tax, fee, duty or other impost; or

(b) the repealed *Fuel Subsidy Act 1997*.

unencumbered value see section 8A.

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