



New South Wales

First Home Owner Grant Amendment Bill 2002

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *First Home Owner Grant Act 2000* as follows:

- (a) to extend, for a further 6 months, the scheme that provides for the payment of an additional grant in respect of new homes, but with a reduction in the amount of the additional grant from \$7000 to \$3000,
- (b) to make other changes to the additional grant scheme, including by extending some of the time periods during which building works must be completed in order to qualify for an additional grant,
- (c) to make it an offence to provide false or misleading information in or in connection with an application for a first home owner grant,
- (d) to confer on the Chief Commissioner of State Revenue power to recover from third parties an amount paid under the Act, or any penalty, that is recoverable by the Chief Commissioner under the Act.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent.

Clause 3 is a formal provision giving effect to the amendments to the *First Home Owner Grant Act 2000* set out in Schedule 1.

Schedule 1 Amendments

Extension of scheme for payment of additional grant

At present, the Act provides for the payment of an additional first home owner grant of up to \$7000 in respect of a new home if the contract to buy or build the home is made, or owner building work starts, after 8 March 2001 and before 1 January 2002 (subject to certain additional requirements with respect to completion of building work for homes that are not yet built). Accordingly, the maximum first home owner grant payable in respect of a new home was increased from \$7000 to \$14000.

The amendments extend the operation of the additional grant scheme for a further 6 months, but with a reduction in the amount of the additional grant payable. As a result of the changes, an additional grant of up to \$3000 will be payable in respect of a new home if the contract to buy or build the home is made, or owner building work is started, after 31 December 2001 and before 1 July 2002. Accordingly, the maximum first home owner grant payable in respect of the home will be increased from \$7000 to \$10000.

Similar to existing requirements, eligibility for the additional grant is subject, in the case of new homes that have not yet been built or completed, to certain requirements with respect to the start and completion of building works. The requirements can be summarised as follows:

- (a) in the case of a contract to build a home—the building work must be started within 26 weeks after the contract is made, and completed or required by the contract to be completed within 18 months after the building work is started, and
- (b) in the case of a contract for a purchase “off-the-plan”—the building work must be completed or required by the contract to be completed before 1 July 2004,

- (c) in the case of owner building work—the building work must be completed before 1 July 2004.

See **Schedule 1 [1]–[3]**.

Schedule 1 [7] contains a validation provision for grants already made under the new arrangements.

Other changes to additional grant scheme

As mentioned above, the existing additional grant scheme has certain eligibility requirements relating to the start and completion of building works on new homes. The amendments extend various deadlines under the scheme, with effect from 9 October 2001. Accordingly, the extensions will apply only in respect of contracts to buy or build new homes that were made, or owner building work that was started, on or after 9 October 2001. There are no changes to the deadlines in respect of contracts made, or owner building work started, before 9 October 2001.

In the case of a contract to build a new home, at present the additional grant is payable only if the building work starts within 16 weeks after the contract is made and is completed (or required by the contract to be completed) within 12 months after it is started. Under the new eligibility requirements for contracts made on or after 9 October 2001 and before 1 January 2002, the building work must be started within 26 weeks after the contract was made and completed (or required by the contract to be completed) within 18 months after the building work is started.

In the case of a contract to purchase “off-the-plan”, at present the additional grant is payable only if the building work is completed (or required by the contract to be completed) before 1 May 2003. Under the new eligibility requirements for contracts made on or after 9 October 2001 and before 1 January 2002, the building work must be completed (or required by the contract to be completed) before 1 January 2004.

In the case of owner building work, at present the additional grant is payable only if the building work is completed before 1 May 2003. Under the new eligibility requirements for owner building work started on or after 9 October 2001 and before 1 January 2002, the building work must be completed before 1 January 2004.

The amendments also make it clear that, for the purposes of the additional grant scheme, a *new home* may include a home that is substantially renovated, or demolished and rebuilt, in circumstances where the Commonwealth goods and services tax is payable.

See **Schedule 1 [1]**.

Schedule 1 [7] contains a validation provision for grants already made under the new arrangements.

False or misleading information

At present, the Act makes it an offence to knowingly give false or misleading information to an authorised officer of the Office of State Revenue. However, applications for a first home owner grant may be processed through financial institutions. The amendments make it an offence to knowingly give false or misleading information in or in connection with an application for a first home owner grant.

See **Schedule 1 [4]**.

Recovery of amounts from third parties

At present, the Act gives the Chief Commissioner of State Revenue power to recover certain amounts that are paid under the Act (such as amounts paid in error) and power to recover penalties in certain circumstances (such as where an amount is paid as a result of an applicant's dishonesty). The amendments will authorise the Chief Commissioner to recover those amounts from certain third parties, such as third parties who owe money to the person from whom the amount is recoverable or who hold money on account of that person. The powers are similar to the powers conferred on the Chief Commissioner in relation to the recovery of unpaid tax under section 46 of the *Taxation Administration Act 1996*.

See **Schedule 1 [5]**.

Savings and transitional

Schedule 1 [6] allows savings and transitional regulations to be made as a consequence of the proposed changes.

First print



New South Wales

First Home Owner Grant Amendment Bill 2002

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of First Home Owner Grant Act 2000 No 21	2
Schedule 1 Amendments	3



New South Wales

First Home Owner Grant Amendment Bill 2002

No. , 2002

A Bill for

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

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>First Home Owner Grant Amendment Act 2002</i> .	3
2 Commencement	4
This Act commences on the date of assent.	5
3 Amendment of First Home Owner Grant Act 2000 No 21	6
The <i>First Home Owner Grant Act 2000</i> is amended as set out in Schedule 1.	7 8

Schedule 1	Amendments	1
	(Section 3)	2
[1]	Section 13A	3
	Omit the section. Insert instead:	4
	13A Special eligible transactions	5
	(1) Subject to subsection (6), an eligible transaction that is a contract for the purchase of a home (other than a contract for an “off-the plan” purchase) is a <i>special eligible transaction</i> if:	6
		7
		8
	(a) the home is a new home, and	9
	(b) the contract is made after 8 March 2001 and before 1 July 2002.	10
		11
	(2) Subject to subsection (6), an eligible transaction that is a comprehensive home building contract for a new home is a <i>special eligible transaction</i> if:	12
		13
		14
	(a) the contract is made after 8 March 2001 and before 9 October 2001, and	15
		16
	(b) the building work starts within 16 weeks after the contract is made, or any longer period the Chief Commissioner may allow for delay caused by circumstances beyond the control of the parties, and	17
		18
		19
		20
	(c) the contract states that the eligible transaction must be completed within 12 months after the building work is started or, in any other case, the eligible transaction is completed within 12 months after the building work is started.	21
		22
		23
		24
		25
	(3) Subject to subsection (6), an eligible transaction that is a comprehensive home building contract for a new home is also a <i>special eligible transaction</i> if:	26
		27
		28
	(a) the contract is made after 8 October 2001 and before 1 July 2002, and	29
		30

- (b) the building work starts within 26 weeks after the contract is made, or any longer period the Chief Commissioner may allow for delay caused by circumstances beyond the control of the parties, and 1
 - (c) the contract states that the eligible transaction must be completed within 18 months after the building work is started or, in any other case, the eligible transaction is completed within 18 months after the building work is started. 2
3
4
5
6
7
8
9
- (4) An eligible transaction that is the building of a new home by an owner builder is a *special eligible transaction* if: 10
11
 - (a) the commencement date of the eligible transaction is after 8 March 2001 and before 9 October 2001 and the transaction is completed before 1 May 2003, or 12
13
14
 - (b) the commencement date of the eligible transaction is after 8 October 2001 and before 1 January 2002 and the transaction is completed before 1 January 2004, or 15
16
17
 - (c) the commencement date of the eligible transaction is after 31 December 2001 and before 1 July 2002 and the transaction is completed before 1 July 2004. 18
19
20
- (5) Subject to subsection (6), an eligible transaction that is a contract for an “off-the-plan” purchase of a new home is a *special eligible transaction* if: 21
22
23
 - (a) the contract is made after 8 March 2001 and before 9 October 2001 and either: 24
25
 - (i) the contract states that the eligible transaction must be completed before 1 May 2003, or 26
27
 - (ii) in any other case—the eligible transaction is completed before 1 May 2003, or 28
29
 - (b) the contract is made after 8 October 2001 and before 1 January 2002 and either: 30
31
 - (i) the contract states that the eligible transaction must be completed before 1 January 2004, or 32
33
 - (ii) in any other case—the eligible transaction is completed before 1 January 2004, or 34
35

- (c) the contract is made after 31 December 2001 and before 1 July 2002 and either:
 - (i) the contract states that the eligible transaction must be completed before 1 July 2004, or
 - (ii) in any other case—the eligible transaction is completed before 1 July 2004.

- (6) A eligible transaction that is a contract is not a special eligible transaction if the Chief Commissioner is satisfied that:
 - (a) the contract replaces a contract made before 9 March 2001, and
 - (b) the replaced contract was:
 - (i) a contract for the purchase of the same home, or
 - (ii) a comprehensive home building contract to build the same or a substantially similar home.

- (7) For the purposes of subsections (2) and (3), building work starts when laying the foundations for the home begins.

- (8) In this section:

contract for an “off-the-plan” purchase, of a new home, means a contract for the purchase of the home on a proposed lot in an unregistered plan of subdivision of land.

new home means a home that has not been previously occupied or sold as a place of residence, and includes a substantially renovated home and a home built to replace demolished premises.

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

- (10) For the purposes of this section, a home is a *home built to replace demolished premises* if:

(a)	except for an eligible transaction that is a comprehensive home building contract for a home or the building of a home by an owner builder—the sale of the home is, under the <i>A New Tax System (Goods and Services Tax) Act 1999</i> of the Commonwealth, a taxable supply as a sale of new residential premises within the meaning of section 40-75 (1) (c), and	1 2 3 4 5 6 7
(b)	for an eligible transaction that is a comprehensive home building contract for a home or the building of a home by an owner builder—the home is, under the <i>A New Tax System (Goods and Services Tax) Act 1999</i> of the Commonwealth, new residential premises within the meaning of section 40-75 (1) (c), and	8 9 10 11 12 13
(c)	the home, as built to replace the demolished premises, has not been previously occupied or sold as a place of residence, and	14 15 16
(d)	the owner of the home did not occupy the demolished premises as a place of residence before they were demolished.	17 18 19
[2]	Section 18 Amount of grant	20
	Omit section 18 (2).	21
[3]	Section 18A	22
	Insert after section 18:	23
	18A Amount of grant for special eligible transactions	24
(1)	The amount of the first home owner grant for a special eligible transaction is the amount payable under this section instead of the amount payable under section 18.	25 26 27
(2)	If the commencement date of the special eligible transaction is after 8 March 2001 and before 1 January 2002, the amount payable is the lesser of the following:	28 29 30
(a)	the consideration for the transaction,	31
(b)	\$14000.	32

(3) If the commencement date of the special eligible transaction is after 31 December 2001 and before 1 July 2002, the amount payable is the lesser of the following:	1 2 3
(a) the consideration for the transaction,	4
(b) \$10000.	5
(4) In this section:	6
<i>special eligible transaction</i> —see section 13A.	7
[4] Section 44 Knowingly giving false or misleading information	8
Insert at the end of section 44:	9
(2) A person must not, in or in relation to an application for a first home owner grant, make a statement or give any information knowing that it is false or misleading in a material particular.	10 11 12
Maximum penalty: 100 penalty units.	13
[5] Section 46A	14
Insert after section 46:	15
46A Recovery from third parties	16
(1) The Chief Commissioner may require any of the following persons, instead of the grant recipient, to pay any recoverable amount that is payable but remains unpaid:	17 18 19
(a) a person by whom any money is due or accruing or may become due to the grant recipient,	20 21
(b) a person who holds or may subsequently hold money for or on account of the grant recipient,	22 23
(c) a person who holds or may subsequently hold money on account of some other person for payment to the grant recipient,	24 25 26
(d) a person having authority from some other person to pay money to the grant recipient.	27 28
(2) The Chief Commissioner’s requirement is to be made by notice in writing.	29 30
(3) A copy of the notice must be served on the grant recipient.	31

- (4) The amount of money required to be paid to the Chief Commissioner is: 1
2
- (a) if the amount of the money so held or due or authorised to be paid does not exceed the amount payable by the grant recipient to the Chief Commissioner—all the money, or 3
4
5
6
- (b) if the amount of the money exceeds the amount so payable—sufficient money to pay the amount so payable. 7
8
9
- (5) The money must be paid to the Chief Commissioner on receipt of the notice, or when the money is held by the person and becomes due to the grant recipient, or by the end of such period (if any) as may be specified by the Chief Commissioner, whichever is the later. 10
11
12
13
14
- (6) A person subject to a requirement of the Chief Commissioner under this section must comply with the requirement. 15
16
- Maximum penalty: 100 penalty units. 17
- (7) A person who makes a payment in accordance with this section is taken to be acting under the authority of the grant recipient and of all other persons concerned and is indemnified by this section in respect of the payment. 18
19
20
21
- (8) If, after a person is given a notice under this section by the Chief Commissioner, the whole or a part of the amount is paid by another person, the Chief Commissioner must promptly notify the person to whom the notice is given of the payment and the notice is taken to be amended accordingly. 22
23
24
25
26
- (9) In this section: 27
- grant recipient*** means: 28
- (a) an applicant (or former applicant) for a first home owner grant to whom an amount is paid under this Act, or 29
30
- (b) any other person to whom an amount is paid under this Act. 31
32

-
- recoverable amount* means: 1
- (a) in relation to an applicant (or former applicant) for a 2
first home owner grant, the following amounts: 3
 - (i) an amount that the applicant (or former 4
applicant) is required to repay under the 5
conditions of the grant or by a requirement of 6
the Chief Commissioner under this Act, 7
 - (ii) the amount of any penalty imposed on the 8
applicant (or former applicant) by the Chief 9
Commissioner under this Act, or 10
 - (b) in relation to any other person—an amount the person 11
is required to repay under section 45 (4). 12

[6] Schedule 1 Savings, transitional and other provisions 13

Insert at the end of clause 1 (1): 14

First Home Owner Grant Amendment Act 2002 15

[7] Schedule 1, Part 3 16

Insert after Part 2: 17

**Part 3 Provisions consequent on enactment of First 18
Home Owner Grant Amendment Act 2002** 19

5 Validation of payment of grants 20

The payment of an amount as a first home owner grant before 21
the commencement of this clause, and anything done under this 22
Act, is validated to the extent that it would have been valid if 23
this Act (as amended by Schedule 1 [1]–[3] to the *First Home* 24
Owner Grant Amendment Act 2002) had been in force when 25
the payment was made or the thing was done. 26