



New South Wales

# First Home Owner Grant Amendment Bill 2001

## 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*:

- (a) to increase to \$14000 the maximum first home owner grant payable in respect of new homes where the relevant contract is entered into, or owner builder building work starts, between 9 March 2001 and 31 December 2001 (subject to additional requirements as to completion time), and
- (b) to impose as an additional criterion for eligibility for a first home owner grant a requirement that the applicant be at least 16 years of age (with provision for the Chief Commissioner to grant an exemption from this requirement when satisfied as to the genuineness of the transaction), and
- (c) to require the purchase of a home to be registered under relevant State law before the purchase is considered to be completed for the purposes of entitlement to a first home owner grant, and
- (d) to clarify the right to make objections and obtain reviews under that 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

### Increased first home owner grant

**Schedule 1 [4]** and **[5]** increase from \$7000 to \$14000 the maximum amount of first home owner grant that is payable in respect of new homes (homes that have not been previously sold or occupied as a residence) where the contract to buy or build the home is entered into, or owner builder building work starts, between 9 March 2001 and 31 December 2001, subject to the following additional eligibility criteria in the case of a home that is not yet built:

- (a) building work must start within 16 weeks after the contract is signed and must be completed or be required to be completed within 12 months,
- (b) in the case of a contract to buy “off the plan”, building work must be completed or be required to be completed before 1 May 2003,
- (c) owner builder building work must be completed before 1 May 2003.

**Schedule 1 [11]** contains a validation provision for grants already made under the new provisions.

### Applicants to be at least 16 years of age

**Schedule 1 [1]** and **[2]** provide that an applicant for a first home owner grant must be at least 16 years of age. The Chief Commissioner may grant an exemption from this requirement if satisfied that the home will be occupied as the applicant’s principal place of residence and the application does not form part of a scheme to circumvent eligibility or entitlement requirements.

**Schedule 1 [11]** contains a transitional provision that applies the new restrictions on the age of applicants to applications made after the introduction of this Bill into Parliament.

### **Eligibility for first home owner grant**

A first home owner grant is not payable in respect of a contract for the purchase of the home until the contract is completed (although the Chief Commissioner can authorise payment in advance of completion in certain circumstances). Under the principal Act, a contract for the purchase of a home is completed when the purchaser becomes entitled to possession of the home under the contract. The amendment adds a requirement that, if the purchaser acquires a registrable interest in the land under the contract, that interest must be registered before the contract is considered to be completed. (See **Schedule 1 [3]**)

**Schedule 1 [11]** contains a transitional provision.

### **Objections and reviews**

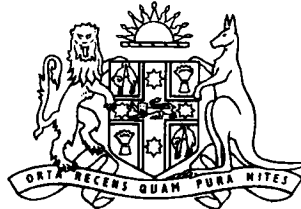
**Schedule 1 [6]** makes it clear that a right to object against a decision of the Chief Commissioner on an application for the first home owner grant extends to a later decision by the Chief Commissioner to vary or reverse an earlier decision on an application.

The principal Act also provides that a failure by the Chief Commissioner to make a determination in respect of an objection within 90 days after it is lodged is to be treated as a determination to disallow the objection. The amendments set out in **Schedule 1 [7], [8] and [9]** change the provisions so that they are more consistent with the *Taxation Administration Act 1996*. Under the revised provisions, an application for a review of a decision to which an objection was made may be made if 90 days has passed since the objection was lodged and the Chief Commissioner has not determined the objection. If the Chief Commissioner determines the objection (whether or not within that 90-day period), an application for review must be made not later than 60 days after the date of issue of the notice of the Chief Commissioner's determination.

### **Savings and transitional regulations**

**Schedule 1 [10] and [11]** insert a power to make savings and transitional regulations in the principal Act.

First print



New South Wales

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New South Wales

# First Home Owner Grant Amendment Bill 2001

No. , 2001

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## A Bill for

An Act to amend the *First Home Owner Grant Act 2000* to make further provision with respect to eligibility and objections and to provide for an increase in the maximum grant under that Act in certain cases; and for other purposes.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>First Home Owner Grant Amendment Act 2001</i> .	3
<b>2 Commencement</b>	4
This Act commences on the date of assent.	5
<b>3 Amendment of First Home Owner Grant Act 2000 No 21</b>	6
The <i>First Home Owner Grant Act 2000</i> is amended as set out in Schedule 1.	7
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<b>Schedule 1 Amendments</b>	1
(Section 3)	2
<b>[1] Section 7 Entitlement to grant</b>	3
Omit “9 (2) or 12 (2) or both” from section 7 (2).	4
Insert instead “8A (2), 9 (2) or 12 (2)”.	5
<b>[2] Section 8A</b>	6
Insert after section 8:	7
<b>8A Criterion 1A—Applicant to be at least 16 years of age</b>	8
(1) An applicant for a first home owner grant must be at least 16 years of age.	9 10
(2) The Chief Commissioner may exempt an applicant from the requirement to be at least 16 years of age if the Chief Commissioner is satisfied that:	11 12 13
(a) the home to which the application relates will be occupied by the applicant as his or her principal place of residence within 12 months after completion of the eligible transaction or a longer period approved by the Chief Commissioner, and	14 15 16 17 18
(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.	19 20 21
<b>[3] Section 13 Eligible transactions</b>	22
Omit section 13 (5) (a). Insert instead:	23
(a) in the case of a contract for the purchase of a home:	24
(i) the purchaser becomes entitled to possession of the home under the contract, and	25 26
(ii) if the purchaser acquires an interest in land under the contract that is registrable under a law of the State—the purchaser’s interest is registered under that law, or	27 28 29 30

<b>[4] Section 13A</b>	1
Insert after section 13:	2
<b>13A Special eligible transactions</b>	3
(1) A <i>special eligible transaction</i> is an eligible transaction the commencement date for which is between 9 March 2001 and 31 December 2001, both dates inclusive, that is:	4 5 6
(a) a contract for the purchase of a new home, or	7
(b) a comprehensive home building contract for a new home if:	8 9
(i) the building work starts within 16 weeks after the commencement date, or such longer period as the Chief Commissioner may allow for delay caused by circumstances beyond the control of the parties, and	10 11 12 13 14
(ii) the contract states the building work must be completed within 12 months after it is started or, if the contract does not state a completion date for the building work, it is completed within 12 months after it is started, or	15 16 17 18 19
(c) the building of a new home by an owner builder if the eligible transaction is completed before 1 May 2003.	20 21
(2) However, an eligible transaction mentioned in subsection (1) (a) that is a contract for the purchase of a new home on a proposed lot in an unregistered plan of subdivision of land is a special eligible transaction only if the contract states the building work must be completed before 1 May 2003 or, if the contract does not state a completion date for the building work, it is completed before that date.	22 23 24 25 26 27 28
(3) Also, an eligible transaction that is a contract is not a special eligible transaction if the Chief Commissioner is satisfied that the contract replaces a contract made before 9 March 2001 that was a contract to purchase the same home or a comprehensive home building contract to build the same or a substantially similar home.	29 30 31 32 33 34
(4) For the purposes of this section, building work:	35
(a) starts when laying the foundations for the home starts, and	36 37



(b)	is completed when the building is ready for occupation as a home.	1 2
(5)	In this section: <i>new home</i> means a home that has not been previously occupied or sold as a place of residence.	3 4 5
<b>[5]</b>	<b>Section 18 Amount of grant</b>	6
	Insert at the end of section 18:	7
(2)	Despite subsection (1), the amount of a first home owner grant for an eligible transaction that is a special eligible transaction (within the meaning of section 13A) is the lesser of the following:	8 9 10 11
(a)	the consideration for the special eligible transaction,	12
(b)	\$14000.	13
<b>[6]</b>	<b>Section 25 Objections</b>	14
	Insert “(including a decision to reverse or vary an earlier decision)” after “decision on the application” in section 25 (1).	15 16
<b>[7]</b>	<b>Section 27 Decision not made within 90 days</b>	17
	Omit the section.	18
<b>[8]</b>	<b>Section 28 Reviews by Administrative Decisions Tribunal</b>	19
	Omit section 28 (1). Insert instead:	20
(1)	An objector may apply to the Administrative Decisions Tribunal for a review of the decision (the <i>original decision</i> ) to which the objection was made if:	21 22 23
(a)	the objector is dissatisfied with the Chief Commissioner’s determination of the objection, or	24 25
(b)	90 days have passed since the objection was lodged with the Chief Commissioner and the Chief Commissioner has not determined the objection.	26 27 28

<b>[9] Section 28 (4)</b>	1
Omit the subsection. Insert instead:	2
(4) An application for review:	3
(a) following a determination by the Chief Commissioner of an objection—must be made not later than 60 days after the date of issue of the notice of the Chief Commissioner’s determination of the objection, or	4 5 6 7
(b) following a failure of the Chief Commissioner to determine an objection within the relevant 90-day period—may be made at any time after the end of that period (but must be made as required by paragraph (a) following a subsequent determination of the objection by the Chief Commissioner).	8 9 10 11 12 13
<b>[10] Section 52A</b>	14
Insert after section 52:	15
<b>52A Savings, transitional and other provisions</b>	16
Schedule 1 has effect.	17
<b>[11] Schedule 1</b>	18
Insert after section 54:	19
<b>Schedule 1 Savings, transitional and other provisions</b>	20
(Section 52A)	21 22
<b>Part 1 Preliminary</b>	23
<b>1 Regulations</b>	24
(1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:	25 26 27
<i>First Home Owner Grant Amendment Act 2001</i>	28

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<p>(2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.</p> <p>(3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:</p> <p style="padding-left: 2em;">(a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or</p> <p style="padding-left: 2em;">(b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.</p>	<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p>
<p><b>Part 2 Provisions consequent on enactment of First Home Owner Grant Amendment Act 2001</b></p>	<p>15</p> <p>16</p> <p>17</p>
<p><b>2 Completion date for eligible transactions</b></p> <p>The amendment made to section 13 by the <i>First Home Owner Grant Amendment Act 2001</i> extends to eligible transactions entered into before the commencement of that amendment if a first home owner grant has not been paid in respect of the transaction concerned.</p>	<p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>
<p><b>3 Applicants to be at least 16 years of age</b></p> <p>Section 8A extends to an application under this Act made before the commencement of that section but only if:</p> <p style="padding-left: 2em;">(a) the application was made on or after the day on which the Bill for the <i>First Home Owner Grant Amendment Act 2001</i> was first introduced into Parliament (whether or not that Act was enacted in the form of the Bill as introduced), and</p> <p style="padding-left: 2em;">(b) a first home owner grant had not been paid in respect of the application before the commencement of section 8A.</p>	<p>24</p> <p>25</p> <p>26</p> <p>27</p> <p>28</p> <p>29</p> <p>30</p> <p>31</p> <p>32</p> <p>33</p> <p>34</p>

<b>4 Validation of payment of increased grants</b>	1
The payment of an amount as a first home owner grant	2
before the commencement of section 13A is validated to the	3
extent that the payment would have been valid had section	4
13A been in force at the time it was made.	5