



## **Statutory Review**

### **HomeFund Restructuring Act 1993**

### **Home Purchase Assistance Authority Act 1993**

## **Report to NSW Parliament**

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**REVIEW OF HOMEFUND RESTRUCTURING ACT 1993 AND  
HOME PURCHASE ASSISTANCE AUTHORITY ACT 1993**

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## **1. PURPOSE OF REVIEW**

This report presents the results of a review of the policy objectives and terms of the HomeFund Restructuring Act 1993 No.112 and of the Home Purchase Assistance Authority Act 1993 No.15.

Section 25 of the HomeFund Restructuring Act requires that:

- “(1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.
- (3) A report of the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.”

Section 24 of the Home Purchase Assistance Authority Act contains similar provisions in respect of that Act.

A report on the Home Purchase Assistance Authority Act 1993 was tabled on 11 May 1999. That report concluded that no amendments were required to the Act at that time. However, the report noted the interrelationships between the two Acts and indicated that a further review of the Home Purchase Assistance Authority Act would be undertaken in conjunction with the review of the HomeFund Restructuring Act.

## **2. BACKGROUND**

### **2.1 HomeFund Restructuring Act**

The HomeFund Restructuring Act provided for the restructure of HomeFund as generally proposed by the Home Purchase Assistance Authority in its December 1993 Report to the Minister for Housing with certain amendments agreed by Parliament. Under the Act, the Authority was given responsibility for the management of the restructuring scheme.

Section 4 of the Act states that the objects of the HomeFund Restructuring Act 1993 are to ‘enable HomeFund borrowers to participate in a restructuring scheme and to provide for the consequences of the restructuring scheme’.

In the Second Reading Speech of 15 December 1993, the then Minister for Housing stated that 'the thrust of the restructure is to maximise the prospects for HomeFund borrowers to achieve home ownership or, where this is not possible, to assist them out of the scheme while still providing them with housing'.

The key principles of the restructuring scheme were:

- Assistance was highly targeted to those most in need:
  - subsidies were income-based; and
  - there was a strong incentive to refinance with other lenders to take advantage of the falls in market interest rates.
- The restructure involved a once-only offer of assistance.
- The restructure changed the terms and conditions of the mortgages, not the financial structure underlying the scheme. An Information Memorandum for FANMAC Trust Bondholders was issued to describe the implications of the restructure for bondholders.

## 2.2 Home Purchase Assistance Authority Act

The Home Purchase Assistance Authority Act provides for:

- the constitution of the Authority as a statutory body representing the Crown;
- the Authority to be subject to Ministerial control and direction;
- a Board to consist of the Chief Executive Officer and up to five part-time members.

Under Section 13 of the Home Purchase Assistance Authority Act the principal functions of the Authority are:

- a) to develop policies for home purchase assistance and to make recommendations to the Minister on such matters;
- b) to manage such existing and future home purchase assistance schemes as are from time to time directed by the Minister.

As stated in Section 4 of the Act, the object of the Home Purchase Assistance Authority Act 1993 was to constitute a Home Purchase Assistance Authority for the purpose of:

- “(a) facilitating the provision of assistance to home purchasers on low to moderate incomes; and

- (b) managing such existing and future home purchase assistance schemes (including the portfolio of loans under HomeFund schemes) as are directed by the Minister; and
- (c) funding such other rental and home purchase assistance schemes as are directed by the Minister.”

In the Second Reading Speech on 27 April 1993, the then Minister for Housing stated that the purpose of the legislation was to establish the Authority as a separate, single-purpose statutory corporation. This was intended to simplify the management of HomeFund and to improve accountability by creating a single authority dedicated to its administration.

### 3. HOMEFUND RESTRUCTURING SCHEME

The HomeFund restructuring scheme was based on a grouping of borrowers into four categories as outlined in Table 1 below.

**TABLE 1: HOMEFUND RESTRUCTURING SCHEME**

<b>Category</b>	<b>Eligibility</b>	<b>Policy Measures</b>
A	Able to refinance with other lenders	No restructuring assistance.
B	Unable to refinance but able to repay their loan with an interest subsidy	Offered an income-gearred subsidised loan based on initial repayments of 27-30% income. No planned capitalisation of interest. Borrowers had the opportunity to achieve outright home ownership within 25 years.
C	Unable to repay their loan, even with an interest subsidy	Offer of sale of property to Authority (with waiver of any debt above sale value) and medium term rental at subsidised rates.
D	Repayment arrears of 3 months or more	Assistance in Category C or B if arrears cleared or if borrower enters an agreement to pay the arrears over time. Otherwise foreclosure action to be taken, although borrowers could be allowed to stay in the home for up to fifteen months.

Borrowers with non-standard HomeFund loans - shared equity loans and Aged Persons Home Update loans - were excluded from the provisions of the HomeFund Restructuring Act 1993. These borrowers were offered separate (non-legislated) restructuring assistance.

Table 2 provides a statistical summary of the numbers of HomeFund borrowers who participated in the HomeFund Restructuring Scheme over the period February 1994 to June 1996.

**TABLE 2: HOMEFUND RESTRUCTURING SCHEME - KEY STATISTICS**

	Number
Borrowers invited to participate	24,590
Telephone enquiries (a)	145,507
Personal interviews (HomeFund Advisory Service)	4,031
Assessments of borrowers for restructuring assistance	17,277
Borrowers assessed as Category A	3,866
Mortgages restructured under Category B	7,379
Properties purchased under Category C	2,434
Waivers of "negative equity" under Category C	901
Residential tenancy agreements under Category C	1,814
Temporary stay arrangements under Category D	60

(a) During implementation phase - February 1994 to June 1996

The response of borrowers to the restructure was very positive with a high rate of participation - 70% of borrowers returned completed assessment forms.

A statistical profile of non-respondents revealed that:

- 60% were subsidised borrowers who had generous entitlements under their existing mortgage; and
- 46% had been identified as 'preliminary' Category A, ie. were not entitled to restructuring assistance.

Almost 82% of Category B borrowers chose to accept the offer of loan restructuring, and 62% of borrowers assessed as Category C sold their homes to the Authority.

#### 4. CURRENT STATUS OF HOMEFUND SCHEME

There has been a substantial reduction in the size of the HomeFund scheme over the past five years. As at 30 June 1999, there were 4,242 loans outstanding compared with 24,590 prior to the restructure in February 1994.

Based on sample survey data, it is estimated that approximately two-thirds of those borrowers who have exited the scheme since the start of the restructure were able to refinance their loan with another lender. The available evidence suggests that only a relatively small proportion of borrowers may have left the scheme involuntarily. Less than 5% left the scheme in circumstances of repayment "stress", defined as serious repayment arrears at the time of loan discharge.

Table 3 provides a summary of the composition of the HomeFund portfolio as at 30 June 1999.

**TABLE 3: HOMEFUND LOAN PORTFOLIO: JUNE 1999**

Loan Type	Number of Loans	%
Restructured	2,435	57.4
Restructured Shared Equity	148	3.5
Restructured Aged Persons	105	2.5
Home Update		
Unrestructured Loans		
- Affordable	955	22.5
- Low Start	344	8.1
- Shared Equity	171	4.0
Inactive (a)	84	2.0
<b>TOTAL</b>	<b>4,242</b>	<b>100.0</b>

(a) Includes unsecured residual debts

Former HomeFund borrowers who accepted sale and leaseback offers under Category C of the HomeFund restructuring scheme are accommodated by the Authority under subsidised rental arrangements. As at 30 June 1999 there were 829 such tenancies managed by the Authority.

#### 5. FUNCTIONS OF HOME PURCHASE ASSISTANCE AUTHORITY

The current functions of the Authority are:

- management of existing Government loan portfolios, principally HomeFund but also including a range of pre-HomeFund portfolios and the Government Guaranteed Loan Scheme;

- property management and tenancy services for those former HomeFund borrowers now renting from the Authority;
- provision of a home purchase information and advisory service for the general public.
- administration of the Mortgage Assistance Scheme which provides temporary assistance for home buyers experiencing financial hardship in servicing mortgage commitments under both Government and non-Government loan schemes; and
- financial management - the Authority manages the financing of the above mortgage and rental portfolios. Program shortfalls are funded internally from two trust funds.

## 6. REVIEW CONCLUSIONS

The implementation of the HomeFund Restructuring Scheme - a major objective of the HomeFund Restructuring Act - has been successfully achieved. Many borrowers have voluntarily left the scheme. However, a significant number of borrowers remain either with HomeFund mortgages or tenancy agreements with the Authority and, in these circumstances, the policy objectives of the HomeFund Restructuring Act remain valid.

With the implementation of the restructure completed, certain sections of the Act are now redundant. However, as other major provisions remain in force and to preserve the integrity and completeness of the Act, it is proposed that the Act remain in place in its entirety. The terms of the Act have not been found to be restrictive in day-to-day management nor to constrain the achievement of the policy objectives as a whole. Overall, those terms remain appropriate for securing the policy objectives of the Act.

Although the size of the HomeFund scheme has reduced significantly in recent years, there is a continuing need for systematic management of the existing mortgage and rental portfolios to ensure commitments given to existing clients are met and to safeguard the Government's financial interest in the HomeFund scheme. In current circumstances, no changes are proposed to the Home Purchase Assistance Authority Act. Nonetheless, management arrangements for the HomeFund scheme and the organisational structure of the Authority will be kept under review in the light of future changes in the size and composition of the remaining HomeFund loan and property portfolios.