



New South Wales

Regional Relocation (Home Buyers Grant) Act 2011 No 26

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New South Wales

Regional Relocation (Home Buyers Grant) Act 2011 No 26

Act No 26, 2011

An Act to establish a scheme for the payment of grants to home buyers who relocate from metropolitan to regional areas. [Assented to 27 June 2011]

The Legislature of New South Wales enacts:

Part 1 Preliminary

1 Name of Act

This Act is the *Regional Relocation (Home Buyers Grant) Act 2011*.

2 Commencement

This Act commences on the date of assent to this Act.

3 Definitions

(1) In this Act:

applicant means an applicant or former applicant for a regional relocation grant.

Australian citizen has the same meaning as in the *Australian Citizenship Act 2007* of the Commonwealth.

authorised officer—see section 49.

Chief Commissioner means the Chief Commissioner of State Revenue.

commencement of a purchase—see section 10.

completion of a purchase—see section 11.

eligible applicant—see Division 3 of Part 2.

eligible home relocation—see Division 2 of Part 2.

function includes a power, authority or duty and **exercise** a function includes perform a duty.

home means a building (situated on land in New South Wales) that:

- (a) may lawfully be used as a place of residence, and
- (b) is, in the Chief Commissioner's opinion, a suitable building for use as a place of residence.

land includes land subject to the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*.

metropolitan area means the following parts of the State:

- (a) the Sydney metropolitan area—being the area constituted by the following local government areas:
Ashfield, Auburn, Bankstown, Blacktown, Blue Mountains, Botany Bay, Burwood, Camden, Campbelltown, Canada Bay, Canterbury, Fairfield, Gosford, Hawkesbury, Holroyd, Hornsby, Hunters Hill, Hurstville, Kogarah, Ku-ring-gai, Lane Cove, Leichhardt, Liverpool, Manly, Marrickville, Mosman, North Sydney, Parramatta, Penrith, Pittwater, Randwick, Rockdale,

Ryde, Strathfield, Sutherland Shire, Sydney, The Hills Shire, Warringah, Waverley, Willoughby, Wollondilly, Woollahra, Wyong,

- (b) the Newcastle local government area,
- (c) the Wollongong local government area.

metropolitan home means a home in a metropolitan area.

owner of a home means a person who is the owner (within the meaning of the *Land Tax Management Act 1956*) of the land that is the site of the home.

permanent resident means:

- (a) the holder of a permanent visa within the meaning of section 30 of the *Migration Act 1958* of the Commonwealth, or
- (b) a New Zealand citizen who holds a special category visa within the meaning of section 32 of the *Migration Act 1958* of the Commonwealth.

purchase—see section 9.

regional area—see section 4.

regional home means a home in a regional area.

regional relocation grant means a regional relocation grant authorised under this Act.

relevant third party—see section 35.

scheme closure date—see section 57.

scheme target—see section 56.

- (2) For the purposes of this Act, an agreement for the sale or transfer of, or a transfer of, an entitlement to occupy land to which section 21A of the *Land Tax Management Act 1956* applies is taken to be an agreement for the sale or transfer of, or a transfer of, the land to which that entitlement relates.

Note. The effect of the above provision is to treat a transfer of an entitlement to occupy land that is the subject of a company title arrangement as a transfer of the land to which that entitlement relates.

- (3) Notes included in this Act do not form part of this Act.

4 Regional area—meaning

- (1) For the purposes of this Act, a **regional area** means any part of the State that does not fall within a metropolitan area.
- (2) However, a regional area does not include any local government area declared by the regulations to be an area for which the regional relocation grant is not available.

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Part 1 Preliminary

- (3) A regulation that declares an area to be an area for which the regional relocation grant is not available does not affect the application of this Act to the purchase of a home in that area if the purchase commenced before the commencement of the regulation.

Part 2 Regional relocation grant

Division 1 Regional relocation grant

5 Entitlement to grant

- (1) A regional relocation grant is payable on application under this Act in respect of the purchase of a home if:
 - (a) the purchase is an eligible home relocation, and
 - (b) the applicant is an eligible applicant.
- (2) A requirement imposed by this Part on an applicant applies, if there are 2 or more joint applicants, to each applicant.
- (3) However, an applicant need not comply with a requirement of this Part to the extent that the applicant is exempted from compliance by or under this Act.

6 Amount of grant

The amount of the regional relocation grant is \$7,000.

7 One grant per household

- (1) Only one regional relocation grant is payable in respect of the purchase of a regional home and the disposal of a metropolitan home.
- (2) If a regional relocation grant is paid to an applicant (or joint applicants) on the basis of a particular transaction, no other person is eligible for a regional relocation grant on the basis of that same transaction.

Division 2 Eligible home relocation

8 Eligible home relocation

The purchase of a home by an applicant is an eligible home relocation if the requirements set out in this Division are satisfied.

9 Applicant must purchase a regional home

- (1) The applicant must purchase a regional home.
- (2) For the purposes of this Act, an applicant *purchases* a regional home if:
 - (a) land that is the site of a regional home is transferred to the applicant (either solely or jointly with other transferees) for valuable consideration, and
 - (b) as a result of the transfer, the applicant becomes an owner of the home (either solely or jointly with other transferees).

- (3) The transfer must result in 100% of the ownership of the home being transferred. That is, no persons who were owners of the home before the purchase commenced can be owners of the home after the purchase is completed.

10 Date purchase is commenced

- (1) The purchase of the regional home by the applicant must commence on or after 1 July 2011 and before 1 July 2015.
- (2) For the purposes of this Act, a purchase of a regional home *commences*:
 - (a) in the case of a transfer of land that is made pursuant to an agreement for the sale or transfer of land—on the date the agreement is entered into, or
 - (b) in the case of a transfer of land that is made otherwise than pursuant to an agreement for the sale or transfer of land—on the date the transfer is first executed.
- (3) A purchase is not an eligible home relocation if:
 - (a) it is made pursuant to an agreement for the sale or transfer of land that replaces an agreement made before 1 July 2011, and
 - (b) the replaced agreement is an agreement for the sale or transfer of substantially the same land.
- (4) This section is subject to Part 7 (which provides for a scheme closure date).

11 Purchase must be completed

- (1) The purchase of the regional home must be completed.
- (2) For the purposes of this Act, a purchase of a regional home is *completed* when the applicant becomes entitled to possession of the home and, if the interest in the land acquired by the applicant is registrable under a law of the State, the interest is so registered.

12 Home must be ready for occupation on completion

The regional home must be ready for use and occupation as a place of residence before the purchase is completed.

Note. A purchase of vacant land on which a home is to be built before completion of the purchase is eligible but a purchase of vacant land on which a home is to be built following completion is not eligible.

13 Maximum value of purchase

- (1) The value of the purchase must not exceed \$600,000.

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- (2) The value of the purchase is the greater of the following:
 - (a) the consideration for the purchase,
 - (b) the unencumbered value of the property the subject of the purchase on the date the purchase is completed.
 - (3) 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 that results in the reduction of the value of the property, if the parties to the arrangement are not dealing with each other at arm's length, or
 - (c) any scheme or arrangement that, in the opinion of the Chief Commissioner, was entered into, made or carried out by a party to the scheme or arrangement for the sole or dominant purpose of reducing the value of the property.
 - (4) For the purposes of subsection (3) (c), the Chief Commissioner may have regard to:
 - (a) the duration of the scheme or arrangement before the purchase of the property commenced, and
 - (b) whether there is any commercial efficacy to the making of the scheme or arrangement other than to reduce the value of the property, and
 - (c) any other matters the Chief Commissioner considers relevant.

14 Purchase must be for whole parcel

- (1) The land the subject of the purchase must comprise the whole of the parcel of land on which the home is situated or, if the land is a parcel of land on which 1 or more other homes are situated, or to be situated, that part of the land that is an exclusive occupancy.
- (2) Land is an exclusive occupancy only if the Chief Commissioner is satisfied that the applicant is entitled to occupy a home that is situated on the land as a place of residence to the exclusion of other persons who occupy or are to occupy the other home or homes situated on the parcel of land.

15 Applicant must relocate from metropolitan area

- (1) The applicant must relocate from a metropolitan area.
- (2) An applicant relocates from a metropolitan area if:
 - (a) the applicant is, within 12 months before the purchase of the regional home commences, an owner of a metropolitan home that

- is used and occupied by the applicant as a principal place of residence, and
- (b) the applicant disposes of the metropolitan home before the purchase of the regional home is completed or within the period allowed for residence relocation.
- (3) For the purposes of this Act, an applicant *disposes* of a metropolitan home if:
- (a) land that is the site of the metropolitan home is transferred to another person or persons, and
 - (b) as a result of the transfer, the applicant ceases to be an owner of the home.
- (4) The transfer must result in 100% of the ownership of the home being transferred. That is, no persons who were owners of the home before the disposal of the metropolitan home commenced can be owners of the home after the disposal.
- (5) For the purposes of this section, the disposal of a metropolitan home *commences*:
- (a) in the case of a transfer of land that is made pursuant to an agreement for the sale or transfer of land—on the date the agreement is entered into, or
 - (b) in the case of a transfer of land that is made otherwise than pursuant to an agreement for the sale or transfer of land—on the date the transfer is first executed.
- (6) The period allowed for residence relocation is 12 months after the purchase of the regional home is completed or such longer period as the Chief Commissioner may approve.
- (7) The Chief Commissioner may approve a longer period for residence relocation only if satisfied that the delay in disposing of the metropolitan home is caused by circumstances beyond the control of the applicant.

16 Regional home must be used and occupied as principal place of residence

- (1) The applicant must use and occupy the regional home that is purchased as a principal place of residence for a continuous period of at least 12 months, with that occupation starting within 12 months (or such longer period as the Chief Commissioner may approve) after the purchase is completed.

- (2) The Chief Commissioner may, if satisfied that there are good reasons to do so in a particular case:
 - (a) modify the requirement imposed by this section by approving a shorter period of occupation by a person, or
 - (b) exempt a person from the requirement to comply with this section.

17 Land and home must be used for residential purposes only

- (1) The regional home, or the land on which the home is situated, must not be intended to be used, or made available for use, for any purpose that is not ancillary to the use and occupation of the land for residential purposes (such as a commercial, industrial or professional purpose).
- (2) However, this section does not exclude the purchase of a farming property that includes a home.

Division 3 Eligible applicant

18 Eligible applicants

An applicant is an eligible applicant if the requirements of this Division are satisfied.

19 Applicant must be a natural person

The applicant must be a natural person.

20 Applicant must be Australian citizen or permanent resident

- (1) The applicant must be an Australian citizen or a permanent resident on the date the purchase of the regional home is completed.
- (2) If an application is made by joint applicants and at least one (but not all) of the applicants is an Australian citizen or a permanent resident on the completion of the purchase, the other applicant or applicants are not required to be Australian citizens or permanent residents.

21 Applicant must not have received an earlier grant

- (1) The applicant must not have been a party to an earlier application under this Act in respect of which a grant was paid.
- (2) However, an applicant is not excluded by this section if the grant was paid but later paid back, together with any penalty or interest payable under this Act.

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Part 2 Regional relocation grant

22 Applicant must not be trustee

The applicant must not purchase the regional home in his or her capacity as trustee.

Part 3 Application for grant

Division 1 Application for grant

23 Making of applications

- (1) An application for a regional relocation grant is to be made to the Chief Commissioner in an approved form.
- (2) An application cannot be made before the purchase of the regional home is completed.
- (3) An application must be made no later than 12 months after the purchase of the regional home is completed, subject to this section.
- (4) The Chief Commissioner may accept an application after expiry of the 12-month period if satisfied that the delay in making an application was caused by circumstances beyond the control of the applicant or applicants.
- (5) An application for a regional relocation grant cannot be made after 31 December 2015.
- (6) The Chief Commissioner must refuse an application made after 31 December 2015.

24 All interested persons must join in application

- (1) All interested persons must be applicants.
- (2) A person is an *interested person* if the person:
 - (a) is an owner of the regional home that is purchased (at the completion of the purchase), and
 - (b) is or was an owner of the metropolitan home disposed of to relocate from a metropolitan area (before disposal of that home).

25 Provision of information

- (1) The Chief Commissioner may at any time (whether before or after authorising payment of a regional relocation grant) require an applicant to provide such information or further information as the Chief Commissioner considers necessary for the proper administration of this Act.
- (2) Information provided by an applicant in or in relation to an application must, if the Chief Commissioner so requires, be verified by statutory declaration or supported by other evidence required by the Chief Commissioner.

Division 2 Decision on application

26 Chief Commissioner to decide application

- (1) The Chief Commissioner is to decide whether a regional relocation grant is payable in respect of an application.
- (2) A regional relocation grant is to be paid on an application only if the Chief Commissioner authorises payment of the grant.

27 Payment in advance, subject to statutory conditions

- (1) The Chief Commissioner may authorise payment of a regional relocation grant in anticipation of compliance with any of the requirements for an eligible home relocation, subject to this section.
- (2) If a regional relocation grant is paid in anticipation of compliance with any requirement for an eligible home relocation, the payment is made on condition that, if the relevant requirement is not complied with, the applicant must within 14 days after the end of the period allowed for compliance:
 - (a) give written notice of that fact to the Chief Commissioner, and
 - (b) repay the amount of the grant.
- (3) In the case of a joint application, each applicant is individually liable to comply with a requirement under subsection (2) but compliance by any one or more of them is to be regarded as compliance by both or all.
- (4) A person who fails to comply with the condition imposed by this section is guilty of an offence.
Maximum penalty (subsection (4)): 50 penalty units.
- (5) Payment of a regional relocation grant cannot be authorised before the purchase of the regional home is completed.

28 Imposition of conditions by Chief Commissioner

- (1) The Chief Commissioner may authorise the payment of a regional relocation grant on any conditions the Chief Commissioner considers appropriate.
- (2) A condition imposed by the Chief Commissioner may require a person on whose application the regional relocation 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 or a part of the grant within a period stated in the condition.

- (3) In the case of a joint application, each applicant is individually liable to comply with a requirement under subsection (2) but compliance by any one or more of them is to be regarded as compliance by both or all.
- (4) A person who fails to comply with a condition imposed by the Chief Commissioner is guilty of an offence.
Maximum penalty (subsection (4)): 50 penalty units.

29 Payment of grant

- (1) A regional relocation grant is to be paid:
 - (a) to the applicant, or
 - (b) to some other person to whom the applicant directs in writing that the grant be paid.
- (2) A regional relocation grant may be paid by electronic funds transfer, by cheque or in any other way the Chief Commissioner thinks appropriate.

30 Power to correct decision

- (1) If the Chief Commissioner decides an application, and is later satisfied (independently of an objection under this Act) that the decision is incorrect, the Chief Commissioner may vary or reverse the decision.
- (2) A decision cannot be varied or reversed under this section more than 5 years after it was made.
- (3) The 5-year time limit on varying or reversing a decision does not apply to a decision that was made on the basis of false or misleading information provided by an applicant or by a person on behalf of the applicant.

31 Notification of decision

- (1) The Chief Commissioner must give an applicant notice of a decision to authorise or refuse payment of a regional relocation grant on an application or to vary or reverse an earlier decision on an application.
- (2) Notice of a decision to refuse an application, or to vary or reverse an earlier decision on an application, must include the reasons for the decision.

Part 4 Repayment of grant

32 Power to require repayment from applicant

- (1) The Chief Commissioner may, by written notice, require an applicant for a regional relocation grant to repay to the Chief Commissioner an amount paid by way of grant on an application if:
 - (a) the amount was paid in error, or
 - (b) the Chief Commissioner varies or reverses the decision under which the amount was paid for any other reason, or
 - (c) the applicant fails to comply with a condition on which the grant was paid.
- (2) The Chief Commissioner may, by written notice, require the applicant to pay a penalty determined by the Chief Commissioner if the amount paid by way of grant was paid as a result of the applicant's dishonesty.
- (3) The penalty is not to exceed the amount the applicant is required to repay.
- (4) An applicant for a regional relocation grant is liable to pay to the Chief Commissioner an amount the Chief Commissioner requires the applicant to pay under this section.
- (5) If there are 2 or more applicants for the regional relocation grant, the liability is joint and several.
- (6) The Chief Commissioner may recover the amount payable as a debt due to the Crown.
- (7) The Chief Commissioner may, by written notice, require an applicant to pay interest on the amount required to be paid to the Chief Commissioner under this section if the applicant fails to pay the amount in accordance with the requirements specified by the Chief Commissioner in the notice requiring payment.
- (8) Interest is to be charged in the manner applicable to tax defaults under the *Taxation Administration Act 1996*.

33 Charge on land for liability of applicant

- (1) Any liability that an applicant has under this Act to pay or repay an amount to the Chief Commissioner is a charge on the applicant's interest in the home that is the subject of the purchase for which the regional relocation grant was sought.

- (2) The charge created by this section gives the Chief Commissioner an interest in the land on which the home is situated and, accordingly, the Chief Commissioner may lodge a caveat in respect of the land under the *Real Property Act 1900* to protect that interest.
- (3) The caveat must be withdrawn when the amount that the applicant is liable to pay or repay (including any penalty or interest) has been paid.

34 Power to require repayment from non-applicant

- (1) If an amount is paid in error on an application for a regional relocation grant to a person who is not the applicant, the Chief Commissioner may, by written notice, require the person to repay the amount to the Chief Commissioner.
- (2) The person is liable to pay to the Chief Commissioner an amount the Chief Commissioner requires the person to pay under this section.
- (3) The Chief Commissioner may recover the amount payable as a debt due to the Crown.
- (4) The Chief Commissioner may, by written notice, require a person to pay interest on the amount required to be paid to the Chief Commissioner under this section if the person fails to pay the amount in accordance with the requirements specified by the Chief Commissioner in the notice requiring payment.
- (5) Interest is to be charged in the manner applicable to tax defaults under the *Taxation Administration Act 1996*.

35 Recovery from third parties

- (1) The Chief Commissioner may, by written notice, require a relevant third party to pay an unpaid amount that a grant recipient is liable to pay to the Chief Commissioner under the conditions of the grant or by a requirement of the Chief Commissioner under this Act.
- (2) Each of the following persons is a ***relevant third party***:
 - (a) a person who owes money to the grant recipient or may subsequently owe money to the grant recipient,
 - (b) a person who holds or may subsequently hold money for or on account of the grant recipient,
 - (c) a person who holds or may subsequently hold money on account of some other person for payment to the grant recipient,
 - (d) a person having authority from some other person to pay money to the grant recipient.
- (3) A copy of the notice must be served on the grant recipient.

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

36 Payment by instalments

- (1) The Chief Commissioner may enter into an arrangement for payment by instalments of an outstanding amount that a person is liable to pay under this Part.
- (2) The arrangement may include provision for the payment of interest at the rate applicable to tax defaults under the *Taxation Administration Act 1996*.

37 Write off of liabilities

The Chief Commissioner may write off the whole or part of a liability outstanding under this Part if satisfied that action, or further action, to recover the amount outstanding is impracticable or unwarranted.

38 Remission of amounts payable

- (1) The Chief Commissioner may remit, in whole or in part, any amount a person is required to pay under this Part.
- (2) An amount remitted is taken to have been paid.

Part 5 Objections and reviews

Division 1 Objections

39 Objections

- (1) An applicant for a regional relocation grant who is dissatisfied with any of the following decisions of the Chief Commissioner may lodge a written objection to the decision with the Chief Commissioner:
 - (a) a decision on the person's application for a regional relocation grant (including a decision to vary or reverse an earlier decision made independently of an objection under this Act),
 - (b) a decision to require the person to repay an amount paid by way of grant under this Act,
 - (c) a decision to require the person to pay a penalty under this Act,
 - (d) a decision to require the person to pay interest on an amount unpaid under this Act.
- (2) A person (other than an applicant for a regional relocation grant) who is dissatisfied with any of the following decisions of the Chief Commissioner may lodge a written objection to the decision with the Chief Commissioner:
 - (a) a decision to require the person to repay an amount paid by way of grant under this Act (made on the basis that the amount was paid in error),
 - (b) a decision to require the person to pay interest on an amount unpaid under this Act.
- (3) A person who is dissatisfied with a decision of the Chief Commissioner to require the person to pay an amount to the Chief Commissioner under this Act made on the basis that the person is a relevant third party may lodge a written objection to the decision with the Chief Commissioner.

40 Time for lodging objection

- (1) An objection must be lodged within 60 days after the date notice of the decision concerned is served on the objector.
- (2) If the Chief Commissioner is satisfied that an objector has a reasonable excuse for failing to lodge an objection within the 60-day period, the Chief Commissioner may extend the time for lodging the objection.

41 Grounds for objection to be stated

The grounds for an objection must be stated fully and in detail in the objection.

42 Onus of proof on objection

An objector has the onus of proving the objector's case on an objection.

43 Powers of Chief Commissioner on objection

After considering an objection, the Chief Commissioner may:

- (a) allow the objection in whole or in part or disallow the objection, and
- (b) accordingly reverse, vary or confirm the decision to which the objection was made.

44 Notice of determination of objection

- (1) The Chief Commissioner must give an objector written notice of the determination of the objection.
- (2) The Chief Commissioner must, in the notice, give the reasons for disallowing the objection or for allowing the objection in part only.
- (3) The reasons for a determination of an objection must set out the matters referred to in section 49 (3) of the *Administrative Decisions Tribunal Act 1997* in respect of the determination.
- (4) The notice must also inform the objector of the objector's right to make an application for review under Division 2 in the case of a determination to disallow the objection or to allow the objection in part only.

Division 2 Reviews**45 Reviews by Administrative Decisions Tribunal**

- (1) An objector may apply to the Administrative Decisions Tribunal for a review of the decision (the *original decision*) to which the objection was made if:
 - (a) the objector is dissatisfied with the Chief Commissioner's determination of the objection, or
 - (b) 90 days have passed since the objection was lodged with the Chief Commissioner and the Chief Commissioner has not determined the objection.
- (2) The applicant's and respondent's cases on an application for review are not limited to the grounds of the objection.
- (3) The applicant has the onus of proving the applicant's case in an application for review.

- (4) An application for review:
 - (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
 - (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).
- (5) The Administrative Decisions Tribunal may extend the time for making an application for review.
- (6) The following provisions of the *Administrative Decisions Tribunal Act 1997* do not apply to an application made under this section:
 - (a) Part 2 of Chapter 5,
 - (b) section 55 (1) (b) and (d),
 - (c) Division 2 of Part 3 of Chapter 5.
- (7) For the purposes of section 58 (1) (a) of the *Administrative Decisions Tribunal Act 1997*:
 - (a) the obligation of the Chief Commissioner under that paragraph to lodge a statement of reasons with the Administrative Decisions Tribunal in respect of an application is limited to providing the Tribunal with a statement of reasons only in respect of the matters arising from the grounds specified in the application, and
 - (b) if one of the grounds specified in the application relates to a matter raised in an objection determined by the Chief Commissioner—the Chief Commissioner may rely on reasons previously given to the objector by the Chief Commissioner under this Act for the determination of the objection in explanation of that part of the original decision.

46 Powers of Administrative Decisions Tribunal on review

- (1) On a review, the Administrative Decisions Tribunal may:
 - (a) confirm, vary or reverse the original decision, and
 - (b) make any further orders as to costs or otherwise that it thinks fit.
- (2) This section does not limit the generality of Division 3 of Part 3 of Chapter 5 of the *Administrative Decisions Tribunal Act 1997*.

Part 6 Administration

Division 1 Administration generally

47 Administration

The Chief Commissioner is responsible to the Minister for the administration of the scheme provided for by this Act.

48 Delegation

The Chief Commissioner may delegate functions related to the administration of the scheme other than this power of delegation.

49 Authorised officers

- (1) A person who is an authorised officer for the purposes of the taxation laws, as referred to in section 68 of the *Taxation Administration Act 1996*, is taken to be an authorised officer for the purposes of this Act.
- (2) Without limiting subsection (1), the Chief Commissioner may appoint persons to be authorised officers for the purposes of this Act.

Division 2 Powers of investigation

50 Chief Commissioner may carry out authorised investigation

- (1) The Chief Commissioner may carry out an authorised investigation for the purposes of this Act.
- (2) In this Division, an *authorised investigation* is an investigation to determine:
 - (a) whether an application under this Act has been properly made, or
 - (b) whether an objection to a decision made under this Act should be upheld, or
 - (c) whether a purchase in respect of which a regional relocation grant has been paid under this Act was an eligible home relocation, or
 - (d) whether an applicant to whom, or for whose benefit, a regional relocation grant has been paid under this Act was an eligible applicant, or
 - (e) whether a condition on which the regional relocation grant has been paid under this Act has been complied with, or
 - (f) any other matter reasonably related to the administration of this Act.

51 Powers in connection with authorised investigation

- (1) For the purposes of an authorised investigation, the Chief Commissioner may, by written notice, require a person:
 - (a) to give the Chief Commissioner written information specified in the notice, or
 - (b) to attend at a specified time and place before the Chief Commissioner or an authorised officer to answer questions relevant to the investigation, or
 - (c) to produce any document to the Chief Commissioner at a specified time and place.
- (2) A specified time and place for the attendance of a person, or the production of a document, must be a time and place that is reasonable in the circumstances.
- (3) The Chief Commissioner may require that information given, or to be given, under this section be verified on oath or by statutory declaration.

52 Power to require valuation

- (1) For the purposes of determining the value of a purchase, the Chief Commissioner may do any one or more of the following:
 - (a) require, by written notice, an applicant for a regional relocation grant to provide to the Chief Commissioner:
 - (i) a valuation by a registered valuer of any property or consideration, or
 - (ii) other evidence of the value of the property or consideration the Chief Commissioner considers appropriate,
 - (b) have a valuation made of any property or consideration,
 - (c) adopt any available valuation of the property or consideration by a registered valuer (or other person the Chief Commissioner considers suitably qualified).
- (2) In this section, a **registered valuer** has the same meaning as it has in the *Valuers Act 2003*.

53 Access to public records without fee

The Chief Commissioner is entitled, for the purposes of an authorised investigation, to inspect and take copies of any public record kept under an Act or law of this State without payment of any fee that would be payable but for this section.

54 Use and inspection of documents

- (1) The Chief Commissioner or an authorised officer may take and retain possession of any document provided or produced to the Chief Commissioner or authorised officer under this Part for the purpose of:
 - (a) inspecting the document, or
 - (b) taking copies of, extracts of, or notes from, the document.
- (2) However, if the document was provided or produced to the Chief Commissioner or authorised officer on the premises where it is normally kept, the Chief Commissioner or authorised officer may remove it from those premises only:
 - (a) with the consent of the owner or occupier of the premises, or
 - (b) if it is not practicable to inspect or copy or take extracts or notes from the document on the premises.
- (3) The Chief Commissioner or authorised officer may retain possession of the document for a reasonable period, but not exceeding 28 days without the consent of the person entitled to it.
- (4) The Chief Commissioner or authorised officer must permit a person who would be entitled to inspect the document if it were not in the possession of the Chief Commissioner or authorised officer to inspect the document at any reasonable time.
- (5) Nothing in this section prejudices a lien a person has on the document.

55 Obstruction or failure to comply

- (1) A person must not:
 - (a) prevent the Chief Commissioner or an authorised officer from exercising a function under this Part, or
 - (b) hinder or obstruct the Chief Commissioner or an authorised officer in the exercise of such a function, or
 - (c) without reasonable excuse, refuse or fail to comply with a requirement made by the Chief Commissioner or an authorised officer under this Part.

Maximum penalty: 100 penalty units.

- (2) A person is not guilty of an offence under this section if the court hearing the charge is satisfied that:
 - (a) the defendant could not, by the exercise of reasonable diligence, have complied with the requirement to which the charge relates, or
 - (b) the defendant complied with the requirement to the extent of his or her ability to do so.

Part 7 Closure of scheme

56 Scheme target

- (1) It is intended that the scheme provided for by this Act assist in up to 40,000 eligible home relocations.
- (2) Accordingly, the *scheme target* is 40,000 regional relocation grants.

57 Scheme closure date

- (1) The Minister may, by order published on the NSW legislation website, appoint a date as the scheme closure date if it appears to the Minister that the number of regional relocation grants authorised to be paid under this Act has exceeded or will exceed the scheme target.
- (2) An order appointing a scheme closure date must be published on the NSW legislation website no less than 30 days before the scheme closure date so appointed.

58 Effect of scheme closure

- (1) A regional relocation grant is not payable in respect of the purchase of a regional home if the purchase is commenced after the scheme closure date.
- (2) However, the scheme target, or the appointment of a scheme closure date, does not affect the operation of this Act in respect of a purchase of a regional home that commences on or before the scheme closure date.

Part 8 Miscellaneous

59 Knowingly giving false or misleading information

- (1) A person must not make a statement, or give any information, to an authorised officer knowing that it is false or misleading in a material particular.
Maximum penalty: 100 penalty units.
- (2) A person must not, in or in relation to an application under this Act, make a statement or give any information knowing that it is false or misleading in a material particular.
Maximum penalty: 100 penalty units.
- (3) This section applies to any statement or information, whether given orally or in writing.

60 Protection of confidential information

- (1) A person who is subject to a duty of confidentiality must not disclose protected information except as permitted by this section.
Maximum penalty: 100 penalty units.
- (2) A person is subject to a duty of confidentiality if:
 - (a) the person is, or has been, engaged in work related to the administration of this Act, or
 - (b) the person has obtained access to protected information (directly or indirectly) from a person who is, or has been, engaged in work related to the administration of this Act.
- (3) Information is protected information if it is information about an applicant for a regional relocation grant obtained in the course of work related to the administration of this Act.
- (4) Protected information may be disclosed:
 - (a) at the request or with the consent of the person to whom the information relates or a person acting on that person's behalf, or
 - (b) in connection with the administration of the following laws (including for the purpose of any legal proceedings arising out of any of those laws or a report of any such proceedings):
 - (i) this Act,
 - (ii) a taxation law of the Commonwealth or a State or Territory, or
 - (c) as authorised by the regulations.

61 Evidence

- (1) A certificate signed by the Chief Commissioner stating that a regional relocation grant was paid to a person named in the certificate on a specified date is admissible in legal proceedings as evidence of the payment.
- (2) A copy of a notice issued by the Chief Commissioner imposing a penalty under this Act is admissible in legal proceedings as evidence of the imposition of the penalty.
- (3) A copy of a notice issued by the Chief Commissioner requiring the payment or repayment of a specified amount is admissible in legal proceedings as evidence:
 - (a) that the requirement was made, and
 - (b) that the amount specified in the notice was outstanding at the date of the notice.

62 Proceedings for offences

- (1) Proceedings for an offence against this Act or the regulations may be dealt with before the Local Court or before the Supreme Court in its summary jurisdiction.
- (2) Proceedings for an offence against this Act or the regulations may be commenced at any time within 3 years after the date on which it is alleged the offence was committed.

63 Standing appropriation

The Consolidated Fund is appropriated to the extent necessary for the payment of regional relocation grants under this Act.

64 Personal liability

- (1) A matter or thing done or omitted to be done by a protected person does not, if the matter or thing was done or omitted to be done in good faith for the purpose of administering this Act, subject the person so acting personally to any action, liability, claim or demand.
- (2) In this section, a *protected person* means:
 - (a) the Chief Commissioner or an authorised officer, or
 - (b) a member of the Government Service involved in the administration of this Act, or
 - (c) a person to whom the Chief Commissioner has delegated functions under this Act.

65 Regulations

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) A regulation may create an offence punishable by a penalty not exceeding 20 penalty units.

66 Repeal of Act

This Act is repealed on 1 January 2019.

Schedule 1 Savings, transitional and other provisions

1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:
this Act
- (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.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication on the NSW legislation website, the provision does not operate so as:
 - (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
 - (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.

Schedule 2 Amendment of Acts

2.1 Administrative Decisions Tribunal Act 1997 No 76

Schedule 2 Composition and functions of Divisions

Insert in alphabetical order in clause 2 of Part 3C:

Regional Relocation (Home Buyers Grant) Act 2011

2.2 Taxation Administration Act 1996 No 97

[1] Section 82 Permitted disclosures—to particular persons

Omit “or” from section 82 (b) (v).

[2] Section 82 (b) (vi)

Insert after section 82 (b) (v):

(vi) the *Regional Relocation (Home Buyers Grant) Act 2011*,
or

[Agreement in principle speech made in Legislative Assembly on 22 June 2011
Second reading speech made in Legislative Council on 22 June 2011]

BY AUTHORITY