

[Act 2001 No 25]



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.
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## 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.