

Passed by both Houses



New South Wales

Regional Relocation (Home Buyers Grant) Amendment Bill 2013

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I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney,*

, 2013



New South Wales

Regional Relocation (Home Buyers Grant) Amendment Bill 2013

Act No , 2013

An Act to amend the *Regional Relocation (Home Buyers Grant) Act 2011* to permit grants to be made available under that Act to persons who relocate from metropolitan areas to regional areas for the purposes of employment, self-employment or purchasing a home; and for other purposes.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Regional Relocation (Home Buyers Grant) Amendment Act 2013*.

2 Commencement

This Act commences on 1 January 2014.

Schedule 1 Amendment of Regional Relocation (Home Buyers Grant) Act 2011 No 26

[1] Long title

Insert “, workers and self-employed persons” after “buyers”.

[2] Section 1 Name of Act

Omit “(Home Buyers Grant)”. Insert instead “Grants”.

[3] Section 3 Definitions

Omit the definitions of *commencement*, *completion*, *eligible applicant*, *eligible home relocation*, *regional relocation grant* and *scheme target* from section 3 (1).

Insert in alphabetical order:

commencement of a purchase of a regional home—see section 10.

commencement of employment in a regional job—see section 22.

commencement of self-employment in a regional small business—see section 22F.

completion of a purchase of a regional home—see section 11.

eligible applicant—see section 4A.

eligible employment relocation—see Subdivision 2 of Division 2 of Part 2.

eligible home relocation—see Subdivision 2 of Division 1 of Part 2.

eligible self-employment relocation—see Subdivision 3 of Division 2 of Part 2.

job includes an apprenticeship or a traineeship.

regional relocation grant means a regional relocation home buyers grant or a skilled regional relocation incentive.

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

skilled regional relocation incentive means a skilled regional relocation incentive authorised under this Act.

[4] Section 3 (2A) and (2B)

Insert after section 3 (2):

(2A) A requirement in this Act that a principal place of business or a principal place of employment is in a regional area or is at least 100 kilometres from a specified place is satisfied, in the case of employment or self-employment that takes place at a number of different locations, if the majority of that employment or self-employment takes place in the regional area or at least 100 kilometres from that specified place.

(2B) A person is taken not to have been paid a regional relocation grant for the purposes of this Act if the regional relocation grant was paid but later paid back, together with any penalty or interest payable under this Act.

[5] Sections 4A–4C

Insert after section 4:

4A Meaning of “eligible applicant”

(1) An applicant is an *eligible applicant* for the purposes of this Act if the requirements of this section are satisfied.

- (2) The applicant must be a natural person.
- (3) The applicant must be an Australian citizen or a permanent resident:
 - (a) in the case of an application for a regional relocation home buyers grant—on the date the purchase of the regional home is completed, or
 - (b) in the case of an application for a skilled regional relocation incentive—on the date the applicant commences employment in the regional job, or commences self-employment in the regional small business.
- (4) The applicant must not have been a party to an earlier application under this Act in respect of which a regional relocation grant was paid.
- (5) The applicant must not have resided in a metropolitan home with a person who has been paid a regional relocation grant within 2 years before the relocation in respect of which that grant was paid and also resided in a regional home with that person within 2 years after that relocation.

4B Joint applicants

- (1) A requirement imposed by Part 2 on an applicant applies, where there are 2 or more joint applicants, to each applicant.
- (2) Subsection (1) is subject to the following:
 - (a) if this Act specifies that only one of the applicants has to comply with the relevant requirement, then only one of the applicants has to comply with that requirement,
 - (b) an applicant need not comply with a requirement to the extent that the applicant is exempted from compliance by or under this Act.

4C More than one grant cannot be paid

- (1) A person is not eligible to be paid more than one regional relocation grant under this Act.
- (2) More than one grant cannot be paid in respect of the establishment or purchase of a regional small business.

[6] Part 2, heading

Omit “grant”. Insert instead “grants”.

[7] Part 2, Division 1, heading

Insert “home buyers” after “relocation”.

[8] Part 2, Division 1, Subdivision 1, heading

Insert before section 5:

Subdivision 1 General

[9] Section 5

Omit the section. Insert instead:

5 Entitlement to grant

A regional relocation home buyers grant is payable on application under this Act in respect of the purchase of a home if:

- (a) the applicant is an eligible applicant, and
- (b) the purchase is an eligible home relocation.

[10] Section 6 Amount of grant

Insert “home buyers” after “relocation”.

[11] Section 7 One grant per transaction

Omit “and the disposal of a metropolitan home” from section 7 (1).

[12] Part 2, Division 2

Re-number as Subdivision 2.

[13] Section 8 Eligible home relocation

Omit “Division”. Insert instead “Subdivision”.

[14] Section 9 Applicant must purchase a regional home

Insert after section 9 (3):

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

[15] Section 15 Applicant must relocate from metropolitan area

Insert after section 15 (1):

(1A) Residents in metropolitan areas who are not home owners

An applicant relocates from a metropolitan area if:

- (a) the applicant, within 12 months before the purchase of the regional home commenced, had his or her principal place of residence in one or more metropolitan homes for a continuous period of at least 2 years, and
- (b) the applicant is not an owner of any of those metropolitan homes but occupied them under a lease, licence or other arrangement for valuable consideration, and
- (c) each of those metropolitan homes is at least 100 kilometres in a straight line from the regional home, and
- (d) the applicant ceases to reside in any metropolitan home before the purchase of the regional home is completed or within the period allowed for residence relocation.

[16] Section 15 (2), heading

Insert “**Home owners in metropolitan areas**”.

[17] Section 15 (2) (a1)

Insert after section 15 (2) (a):

- (a1) the metropolitan home is at least 100 kilometres in a straight line from the regional home, and

[18] Part 2, Division 3

Omit the Division.

[19] Part 2, Division 2

Insert after section 17A:

Division 2 Skilled regional relocation incentive

Subdivision 1 General

18 Entitlement to incentive

A skilled regional relocation incentive is payable on application under this Act in respect of the relocation of a person if:

- (a) the applicant is an eligible applicant, and
- (b) the relocation is:
 - (i) an eligible employment relocation, or
 - (ii) an eligible self-employment relocation.

19 Amount of grant

The amount of the skilled regional relocation incentive is \$10,000.

Subdivision 2 Eligible employment relocation

20 Eligible employment relocation

The relocation by an applicant is an eligible employment relocation if the requirements set out in this Subdivision are satisfied.

21 Applicant must be employed in a regional job

- (1) The applicant must be employed in one or more regional jobs for:
 - (a) at least 2 years (within the 3 years immediately following the applicant commencing employment in a regional job), or
 - (b) such lesser period as may be permitted by the Chief Commissioner.
- (2) The Chief Commissioner may permit a period of employment that is less than 2 years if satisfied that the applicant has been unable to continue employment in regional jobs for 2 years because of circumstances beyond the control of the applicant.
- (3) For the purposes of this Act, an applicant is *employed* in a regional job if:
 - (a) the applicant is employed in a job on a full-time basis, and
 - (b) the applicant's principal place of employment in the job is in a regional area, and
 - (c) the applicant commenced employment in the job on or after 1 January 2014.

22 Date regional job commenced

- (1) Employment in a regional job by the applicant must commence before 1 July 2015.
- (2) For the purposes of this Act, employment in a regional job *commences*:
 - (a) on the date that the applicant starts working in the regional job, or
 - (b) in the case of an applicant whose eligibility for a regional relocation grant arises out of employment in more than one regional job—the first date that the applicant starts working in any of those regional jobs.

- (3) This section is subject to Part 7 (which provides for a scheme closure date).

22A 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 relocates, within the period allowed for relocation, to a regional area for the purposes of employment in a regional job, and
 - (b) the applicant, within 12 months before commencing employment in the regional job, had his or her principal place of residence in one or more metropolitan homes for a continuous period of at least 2 years, and
 - (c) each of those metropolitan homes is at least 100 kilometres in a straight line from:
 - (i) each regional home occupied and used by the applicant as a principal place of residence during the 2 years following the applicant's relocation, and
 - (ii) each principal place of employment of the applicant during the 2 years following the applicant's relocation.
- (3) The period allowed for relocation is 3 months after the applicant commences employment in the regional job or such longer period as the Chief Commissioner may approve.
- (4) The Chief Commissioner may approve a longer period for relocation only if satisfied that the delay in relocating is caused by circumstances beyond the control of the applicant.

Subdivision 3 Eligible self-employment relocation

22B Eligible self-employment relocation

The relocation by an applicant is an eligible self-employment relocation if the requirements set out in this Subdivision are satisfied.

22C 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 relocates, within the period allowed for relocation, to a regional area for the purposes of being self-employed in a regional small business established or purchased by the applicant, and
 - (b) the applicant, within 12 months before commencing self-employment in the regional small business, had his or her principal place of residence in one or more metropolitan homes for a continuous period of at least 2 years, and
 - (c) each of those metropolitan homes is at least 100 kilometres in a straight line from:
 - (i) each regional home occupied and used by the applicant as a principal place of residence during the 2 years following the applicant's relocation, and
 - (ii) each principal place of business of the regional small business during the 2 years following the applicant's relocation.

- (3) The period allowed for relocation is 3 months after the applicant commences self-employment in the regional small business or such longer period as the Chief Commissioner may approve.
- (4) The Chief Commissioner may approve a longer period for relocation only if satisfied that the delay in relocating is caused by circumstances beyond the control of the applicant.

22D Applicant must establish or purchase a regional small business

- (1) The applicant must establish or purchase a regional small business.
- (2) A business is a *small business* if the business has an ABN and:
 - (a) is conducted by an individual who is a sole trader, or
 - (b) is conducted by a partnership where each of the partners is an individual.
- (3) For the purposes of this Act, an applicant *establishes* a regional small business if:
 - (a) the applicant sets up a new small business that has its principal place of business in a regional area, or
 - (b) the applicant relocates a small business that has its principal place of business in a metropolitan area to a regional area and the principal place of business of the small business in the regional area is at least 100 kilometres in a straight line from its principal place of business in the metropolitan area.
- (4) For the purposes of this Act, an applicant *purchases* a regional small business if the applicant purchases at least 50% of a small business that has its principal place of business in a regional area.

22E Grant must not have been paid

The establishment or purchase of a regional small business is not eligible if a person has been paid a regional relocation grant under this Act in relation to the establishment or purchase of the small business.

22F Date applicant commences self-employment in regional small business

- (1) Self-employment in the regional small business by the applicant must commence on or after 1 January 2014 and before 1 July 2015.
- (2) For the purposes of this Act, self-employment in a regional small business established or purchased by an applicant *commences* on the date that the applicant starts working in the regional small business.
- (3) This section is subject to Part 7 (which provides for a scheme closure date).

22G Applicant must be self-employed in small business for at least 2 years

- (1) The applicant must be self-employed in the regional small business for at least 2 years, or such lesser period as may be permitted by the Chief Commissioner, following the applicant's relocation from a metropolitan area.
- (2) The Chief Commissioner may permit a period that is less than 2 years if satisfied that the applicant has been unable to continue self-employment in the regional small business for 2 years because of circumstances beyond the control of the applicant.

22H Applicant must complete approved program

The applicant must complete a business advisory program approved by the Small Business Commissioner unless:

- (a) the applicant is purchasing part of a regional small business, and
- (b) another person who has been a partner in the business (or who has operated the business as a sole trader) for at least 2 years before the applicant's relocation from the metropolitan area will continue in the business as a partner with the applicant for at least 2 years after that relocation.

[20] Section 23 Making of applications

Omit section 23 (2)–(4). Insert instead:

- (2) An application for a regional relocation grant is to be accompanied by such documents or other evidence as may be required by the Chief Commissioner to demonstrate the applicant's eligibility for the grant.
- (3) An application for a regional relocation home buyers grant cannot be made before the purchase of the regional home is completed but may be made before the applicant has used and occupied the regional home as a principal place of residence for the period required by section 16 (1).
- (4) An application for a skilled regional relocation incentive cannot be made until at least 3 months after the applicant commences employment in a regional job or commences self-employment in a regional small business but may be made before the applicant has been employed in regional jobs or self-employed in the regional small business for the period required by section 21 (1) or 22G.

[21] Section 24

Omit the section. Insert instead:

24 All interested persons must join in application for home buyers grant

- (1) This section applies to an application for a regional relocation home buyers grant.
- (2) All interested persons must be applicants.
- (3) A person is an *interested person* if:
 - (a) the person:
 - (i) is an owner of the land purchased that is the site of, or is intended to be the site of, the regional home (at the completion of the purchase), and
 - (ii) is or was an owner of the land that is the site of the metropolitan home that is disposed of to relocate from a metropolitan area (before the disposal of the home), or
 - (b) the person is, in the case of a grant being sought on the basis of a relocation referred to in section 15 (1A), an owner of the land purchased that is the site of, or is intended to be the site of, the regional home (at the completion of the purchase).

[22] Section 26A

Insert after section 26:

26A Grant may be paid despite relocation being less than 100 kilometres

(1) In this section:

distance requirement means, in respect of an eligible relocation, a requirement that any of the following be at least 100 kilometres from a specified place in a metropolitan area:

- (a) a regional home,
- (b) a principal place of residence, principal place of employment or principal place of business in a regional area.

eligible relocation means an eligible home relocation, an eligible employment relocation or an eligible self-employment relocation.

(2) The Minister may by order published on the NSW legislation website specify circumstances in which a relocation is taken, for the purposes of this Act, to be an eligible relocation despite a distance requirement not being met.

[23] Section 27 Payment in advance, subject to statutory conditions

Insert “, an eligible employment relocation or an eligible self-employment relocation” after “eligible home relocation” wherever occurring in section 27 (1) and (2).

[24] Section 27 (5) and (6)

Omit section 27 (5). Insert instead:

- (5) Payment of a regional relocation home buyers grant cannot be authorised before the purchase of the regional home is completed.
- (6) Payment of a skilled regional relocation incentive cannot be authorised until at least 3 months after the applicant commences employment in a regional job or commences self-employment in a regional small business.

[25] Section 29 Payment of grant

Insert after section 29 (2):

- (3) A skilled regional relocation incentive is to be paid in 2 equal instalments with the second instalment being paid at least one year after the first instalment.

[26] Section 33 Charge on land for liability of applicant

Omit section 33 (1). Insert instead:

- (1) Any liability that an applicant has under this Act to pay or repay an amount to the Chief Commissioner is a charge on:
 - (a) in the case of an applicant for a regional relocation home buyers grant—the applicant’s interest in the land on which is situated the home that is the subject of the purchase for which the regional relocation grant was sought, or
 - (b) in the case of an applicant for a skilled regional relocation incentive—any interest held by the applicant in land.

[27] Section 33 (2)

Omit “on which the home is situated”.

[28] Section 50 Chief Commissioner may carry out authorised investigation

Omit section 50 (2) (c). Insert instead:

- (c) whether a relocation in respect of which a regional relocation grant has been paid under this Act was an eligible relocation, or

[29] Section 50 (3)

Insert after section 50 (2):

- (3) In this section:
eligible relocation means an eligible home relocation, an eligible employment relocation or an eligible self-employment relocation.

[30] Section 56 Scheme target

Omit the section.

[31] Section 57 Scheme closure date

Omit “number of” from section 57 (1).

[32] Section 57 (1)

Omit “the scheme target”.

Insert instead “the amount of money appropriated from the Consolidated Fund for the purposes of regional relocation grants during the period of 1 July 2013 to 30 June 2015”.

[33] Section 58

Omit the section. Insert instead:

58 Effect of scheme closure

- (1) A regional relocation home buyers grant is not payable in respect of the purchase of a regional home if the purchase is commenced after the scheme closure date.
- (2) A skilled regional relocation incentive is not payable in respect of employment in a regional job or self-employment in a regional small business if the employment or self-employment is commenced after the scheme closure date.
- (3) However, the appointment of a scheme closure date does not affect the operation of this Act in respect of a purchase of a regional home, employment in a regional job or self-employment in a regional small business that is commenced on or before the scheme closure date.

[34] Section 63 Standing appropriation

Omit the section.

[35] Schedule 1 Savings, transitional and other provisions

Insert after Part 2:

**Part 3 Provisions consequent on Regional Relocation
(Home Buyers Grant) Amendment Act 2013**

4 Definition

In this Part:

amending Act means the *Regional Relocation (Home Buyers Grant) Amendment Act 2013*.

5 One grant per household

Section 4A applies to a regional relocation grant payable before the commencement of that section but does not apply so as to require the repayment of a regional relocation grant that was paid before the commencement of that section.

6 Commencement of purchase of regional home by metropolitan tenants

Section 15 (1A), as inserted by the amending Act, does not apply in respect of the purchase of a regional home that commenced before 1 January 2014.

7 Metropolitan home must be at least 100 kilometres from regional home

- (1) Section 15 (2) (a1), as inserted by the amending Act, applies in respect of the purchase of a regional home that occurred before the commencement of that paragraph but not if the Chief Commissioner has already received an application for the payment of a grant in respect of the purchase.
- (2) Section 26A, as inserted by the amending Act, applies in respect of the purchase of a regional home if section 15 (2) (a1) applies in respect of the purchase.