

# Regional Relocation Grants (Skills Incentive) Act 2011 No 26

[2011-26]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Previously named**  
Regional Relocation Grants Act 2011  
Regional Relocation (Home Buyers Grant) Act 2011
- **See also**  
[State Revenue Legislation Amendment Bill 2017](#)
- **Proposed repeal**  
The Act is to be repealed by sec 66 of this Act on 1.1.2019.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# Regional Relocation Grants (Skills Incentive) Act 2011 No 26



New South Wales

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# Regional Relocation Grants (Skills Incentive) Act 2011 No 26



New South Wales

An Act to establish a scheme for the payment of grants to home buyers, workers and self-employed persons who relocate from metropolitan to regional areas.

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Regional Relocation Grants (Skills Incentive) 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 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.

**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.

**incentive scheme closure date**—see section 57.

**job** includes an apprenticeship or a traineeship.

**land** includes land subject to the [Strata Schemes Development Act 2015](#).

**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** has the same meaning as it has in the [Land Tax Management Act 1956](#).

**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 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.

**relevant third party**—see section 35.

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

**Note—**

The [Interpretation Act 1987](#) contains definitions and other provisions that affect the interpretation and application of this Act.

- (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.

- (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.
- (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.
- (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.

#### **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.

## **Part 2 Regional relocation grants**

### **Division 1 Regional relocation home buyers grant**

#### **Subdivision 1 General**

##### **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.

##### **6 Amount of grant**

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

##### **7 One grant per transaction**

- (1) Only one regional relocation grant is payable in respect of the purchase of a regional 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.

#### **Subdivision 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 Subdivision 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, or that is intended to be 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 land (either solely or jointly with other transferees).
- (3) The transfer must result in 100% of the ownership of the land being transferred. That is, no persons who were owners of the land before the purchase commenced can be

owners of the land after the purchase is completed.

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

#### **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 30 September 2014.
- (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) (Repealed)

#### **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 land purchased 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 (Repealed)**

#### **13 Maximum value of purchase**

- (1) The value of the purchase must not exceed \$600,000 or, in the case of a purchase of vacant land, \$450,000.
- (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.
- (5) For the purposes of this section, land is **vacant land** if the land does not have a home on it ready for use and occupation as a place of residence when the purchase is completed.

#### **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.
- (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.
- (2) **Home owners in metropolitan areas** 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
    - (a1) the metropolitan home is at least 100 kilometres in a straight line from the regional home, 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 land.
- (4) The transfer must result in 100% of the ownership of the land being transferred. That is, no persons who were owners of the land before the disposal of the metropolitan home commenced can be owners of the land 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.

- (8) For an application made by 2 or more joint applicants, only one of the applicants has to comply with the requirement imposed by this section.

**15A Deadline for construction of new home**

For a purchase of vacant land, the laying of the foundations of the regional home must commence within 26 weeks (or such longer period as the Chief Commissioner may approve) after the purchase is completed.

**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.

**17A Purchase of long term lease of regional home can qualify as eligible home relocation**

- (1) The grant or transfer of a long term lease of land that is the site of, or intended to be the site of, a regional home can qualify as a purchase of a regional home for the purposes of this Act.
- (2) For that purpose:
  - (a) the grant or transfer of a long term lease of land to an applicant is taken to be a transfer of the land to that applicant, and
  - (b) the applicant is taken to become an owner of the land, as a result of the transfer, when the applicant acquires a right to occupy the land under the terms of the lease, and

(c) any person who has a right to occupy the land under the lease is taken to be an owner of the land (to the exclusion of the lessor).

(3) The purchase is taken to commence:

(a) in the case of a grant or transfer of a lease of land made pursuant to an agreement to lease or transfer a lease—on the date the agreement is entered into, or

(b) in the case of a grant or transfer of a lease that is made otherwise than pursuant to such an agreement—on the date the grant or transfer is first executed.

(4) For the purposes of this section, a lease of land is a **long term lease** if and only if the Chief Commissioner is satisfied that the lease gives the lease holder a degree of permanency and security of tenure that is equivalent to an estate in fee simple in the land.

(5) This section does not affect any other requirements of this Part.

**Note—**

In particular, the purchase must be for valuable consideration (section 9) and must not exceed the maximum values set by section 13.

## **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 the incentive scheme closure date.
- (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) (Repealed)

## **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 the incentive scheme closure date.
- (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) (Repealed)

**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 participate in approved program**

The applicant must participate in 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.

## **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 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.
- (5) An application for a regional relocation grant cannot be made after:
  - (a) in the case of an application for a regional relocation home buyers grant—31 March 2015, or
  - (b) in the case of an application for a skilled regional relocation incentive—the date that is 6 months after the incentive scheme closure date.
- (6) The Chief Commissioner must refuse an application made after the relevant date

specified in subsection (5).

#### **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).

#### **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.

#### **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.

## **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, an eligible employment relocation or an eligible self-employment 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, an eligible employment relocation or an eligible self-employment 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 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.

## **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.
- (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.

## **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:

- (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.
- (2) The charge created by this section gives the Chief Commissioner an interest in the land 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 Review 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 Administrative reviews by Civil and Administrative Tribunal**

- (1) An objector may apply to the Civil and Administrative Tribunal for an administrative review under the [Administrative Decisions Review Act 1997](#) 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 an administrative 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 an administrative review.
  - (4) An application for an administrative 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 Civil and Administrative Tribunal may extend the time for making an application for an administrative review.
  - (6) The following provisions of the *Administrative Decisions Review Act 1997* do not apply to an application made under this section:
    - (a) Part 2 of Chapter 3,
    - (b) section 55 (3)–(6),
    - (c) Division 2 of Part 3 of Chapter 3.
  - (7) For the purposes of section 58 (1) (a) of the *Administrative Decisions Review Act 1997*:
    - (a) the obligation of the Chief Commissioner under that paragraph to lodge a statement of reasons with the Civil and Administrative 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 Civil and Administrative Tribunal on administrative review**

- (1) On an administrative review, the Civil and Administrative 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) Subsection (1) does not limit the generality of Division 3 of Part 3 of Chapter 3 of the [Administrative Decisions Review 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 relocation in respect of which a regional relocation grant has been paid under this Act was an eligible 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.

(3) In this section:

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

### **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 or other evidence**

- (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 (or former applicant) for a regional relocation grant to provide to the Chief Commissioner any evidence of the value of the property or consideration that the Chief Commissioner considers appropriate,
  - (b) have a valuation made of any property or consideration by a person the Chief Commissioner is satisfied is suitably qualified to provide evidence of the value of property or consideration,
  - (c) adopt any available valuation made of the property or consideration by a person the Chief Commissioner is satisfied is suitably qualified to provide evidence of the value of property or consideration.
- (2) (Repealed)

### **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 (Repealed)**

### **57 Incentive scheme closure date**

- (1) Subject to subsection (2), the incentive scheme closure date is 31 March 2015.
- (2) The Minister may, by order published on the NSW legislation website, appoint an alternative date as the incentive scheme closure date.
- (3) An order appointing an alternative incentive scheme closure date must be published on the NSW legislation website no less than 30 days before the alternative closure date specified in the order.
- (4) However, the appointment of an alternative incentive scheme closure date does not affect the operation of this Act in respect of employment in a regional job or self-employment in a regional small business that is commenced on or before the alternative incentive scheme closure date.

#### **Note—**

The incentive scheme closure date applies only to a skilled regional relocation incentive. The regional relocation home buyers grant applies only to a purchase commenced before 30 September 2014—see section 10.

### **58 (Repealed)**

## **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 (Repealed)**

## **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**

## **Part 1 General**

### **1 Regulations**

- (1) The regulations may contain provisions of a savings or transitional nature consequent

on the enactment of the following Acts:

this Act

any Act that amends 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.

## **Part 2 State Revenue Legislation Further Amendment Act 2012**

### **2 Application of amendments**

The amendments made to this Act by the *State Revenue Legislation Further Amendment Act 2012* apply in respect of purchases commenced on or after 1 July 2011.

### **3 Long term leases**

The grant or transfer of a lease is not an eligible home relocation under this Act if:

- (a) the grant or transfer is made pursuant to an agreement that replaces an agreement made before 1 July 2011, and
- (b) the replaced agreement is an agreement to lease or transfer a lease of substantially the same land.

## **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.

## **Schedule 2 (Repealed)**