



Western Australia

First Home Owner Grant Amendment Act 2017

As at 05 Dec 2017

No. 16 of 2017

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First Home Owner Grant Amendment Act 2017

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Western Australia

First Home Owner Grant Amendment Act 2017

No. 16 of 2017

An Act to amend the *First Home Owner Grant Act 2000*.

[Assented to 5 December 2017]

The Parliament of Western Australia enacts as follows:

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1. Short title

This is the *First Home Owner Grant Amendment Act 2017*.

2. Commencement

This Act comes into operation as follows —

- (a) sections 1 and 2 come into operation on the day on which this Act receives the Royal Assent (*assent day*);
- (b) sections 8 to 16 are deemed to have come into operation on 1 January 2017;
- (c) the rest of the Act comes into operation on the day after assent day.

3. Act amended

This Act amends the *First Home Owner Grant Act 2000*.

4. Section 6 amended

Delete section 6(2)(a) and (b).

5. Section 12 amended

- (1) In section 12(1)(a) delete “the State; or” and insert:

the State, other than a relevant interest held subject to a trust; or

- (2) In section 12(3)(a) delete “the State” and insert:

the State, other than a relevant interest held subject to a trust,

6. Section 13B inserted

At the end of Part 2 Division 2 insert:

13B. Criterion 7 — applicant must not hold relevant interest as trustee

An applicant is ineligible in relation to a transaction if the applicant owns or will, on completion of the transaction, own the home in circumstances where the applicant holds the relevant interest as a trustee.

7. Section 14AA amended

Delete section 14AA(2)(a) and insert:

- (a) in the case of a contract for the purchase of a home — the purchaser acquires the relevant interest in land on which the home is built; or

8. Section 14A amended

In section 14A in the definition of *relevant date*:

- (a) in paragraph (d) delete “transaction;” and insert:

transaction; or

- (b) after paragraph (d) insert:

- (e) in relation to a class 8 eligible transaction —
1 July 2019;

9. Section 14B amended

(1) After section 14B(4B) insert:

- (4C) A *class 8 eligible transaction* is an eligible transaction the commencement date of which is not before 1 January 2017 and not after 30 June 2017 that is —
- (a) a contract for the purchase of a new home or a substantially renovated home; or
 - (b) a comprehensive home building contract for a new home if —
 - (i) the building work begins within 26 weeks after the commencement date; and
 - (ii) the contract provides to the effect that the building work must be completed within 18 months after it begins or, if the contract does not provide for a completion date for the building work, it is completed within 18 months after it begins;
- or
- (c) the building of a new home by an owner builder if the eligible transaction is completed before the relevant date.

(2) Delete section 14B(4) and insert:

- (4) If the Commissioner is satisfied that a delay in building work is caused by circumstances beyond the control of the parties, the Commissioner may extend —

- (a) the period within which the building work is to begin under subsection (3)(b)(i), (4B)(b)(i) or (4C)(b)(i); or
 - (b) the period within which the building work is to be completed under subsection (3)(b)(ii), (3)(c), (4B)(b)(ii), (4B)(c), (4C)(b)(ii), (4C)(c) or (6)(a).
- (3) In section 14B(6):
- (a) in paragraph (b)(ii) delete “transaction.” and insert:

transaction; or
 - (b) after paragraph (b)(ii) insert:
 - (iii) before 1 January 2017, in respect of a class 8 eligible transaction.

10. Section 19 amended

In section 19(3) in the definition of *relevant amount*:

- (a) in paragraph (f) delete “\$14 000.” and insert:

\$14 000; or
- (b) after paragraph (f) insert:
 - (g) in the case of a class 8 eligible transaction within the meaning of section 14B — \$15 000.

11. Section 22 amended

In section 22(2)(b) after “repay” insert:

the whole or part of

12. Section 26 amended

In section 26 in the definition of *decision on the application*:

(a) in paragraph (d) delete “(3);” and insert:

(3); and

(b) after paragraph (d) insert:

(e) a requirement under section 52A(1) to pay an amount of legal costs incurred by the Commissioner;

13. Section 28 amended

In section 28(1):

(a) in paragraph (b)(ii) delete “Assent.” and insert:

Assent;

(b) after paragraph (b) insert:

or

(c) in the case of a class 8 eligible transaction within the meaning of section 14B, within 60 days after the later of —

(i) the date on which notice of the decision is given to the objector; or

- (ii) the day on which the *First Home Owner Grant Amendment Act 2017* receives the Royal Assent.

14. Section 30 amended

After section 30(5) insert:

- (6) If, as the result of a decision on an objection, an amount of legal costs paid by an applicant is to be repaid to the applicant, the following amounts are payable to the applicant —
 - (a) the amount of legal costs to be repaid;
 - (b) any interest paid by the applicant in respect of a written arrangement approved by the Commissioner under section 52 that relates to an amount referred to in paragraph (a);
 - (c) interest at the prescribed rate on the amounts payable to the applicant under paragraphs (a) and (b) from the date the amount was paid by the applicant to the date approved for the repayment.

15. Section 32 amended

After section 32(4) insert:

- (5) If, as the result of an application for a review of a decision, an amount of legal costs paid by an applicant is to be repaid to the applicant, the following amounts are payable to the applicant —
 - (a) the amount of legal costs to be repaid;

- (b) any interest paid by the applicant in respect of a written arrangement approved by the Commissioner under section 52 that relates to an amount referred to in paragraph (a);
- (c) interest at the prescribed rate on the amounts payable to the applicant under paragraphs (a) and (b) from the date the amount was paid by the applicant to the date approved for the repayment.

16. Section 51 amended

(1) In section 51(1):

(a) in paragraph (c) delete “condition.” and insert:

condition; or

(b) after paragraph (c) insert:

(d) the amount was paid on the basis that the eligible transaction was of a class referred to in section 14B but the eligible transaction is not of such a class.

(2) After section 51(1) insert:

(1A) For the purposes of subsection (1)(d), the amount that the Commissioner may require an applicant to repay is —

(a) if the amount paid on the application was more than the standard grant amount — the difference between those amounts; or

- (b) if the amount paid on the application was equal to or less than the standard grant amount — nil.

(1B) In subsection (1A) —
standard grant amount, in relation to an eligible transaction, means the amount of the first home owner grant payable in respect of the transaction under section 19(2A) to (2C).

(3) In section 51(1) after paragraph (a) insert:

or

17. Section 52 amended

(1) Before section 52(1) insert:

(1A) In this section —
required repayment means any of the following —

- (a) a repayment required, or a penalty imposed, under section 18, 21 or 51;
- (b) a payment required under section 52A(1) or 60(1).

(2) In section 52(1)(a) delete “repayment required, or a penalty imposed, under section 18, 21 or 51 (a **required repayment**); or” and insert:

required repayment; or

18. Section 52A inserted

After section 52 insert:

52A. Commissioner may recover legal costs

- (1) The Commissioner may, by written notice, require an applicant to pay the reasonable legal costs incurred by the Commissioner in relation to proceedings for the recovery of an amount referred to in section 53(1)(a) to (d).
- (2) Subject to any arrangement made under section 52, a payment required under subsection (1) must be paid by the applicant within 28 days after the date on which notice of the requirement is given to the applicant.
- (3) If the notice covers legal costs as defined in the *Legal Profession Act 2008* section 3 —
 - (a) the notice must include or be accompanied by a written statement setting out the applicant's right under the *Legal Profession Act 2008* to apply for an assessment of those costs; and
 - (b) the Commissioner must not commence proceedings to recover those costs until at least 30 days after the date on which the notice is given to the applicant.

19. Section 53 amended

- (1) In section 53(1):
 - (a) delete “to —” and insert:

to the following amounts —

(b) in paragraph (d) delete “section 60.” and insert:

section 60;

(c) after paragraph (d) insert:

(e) the amount of legal costs referred to in a notice given by the Commissioner under section 52A(1).

(2) In section 53(1) after paragraph (c) delete “and”.

20. Section 62 amended

(1) In section 62(3) delete “on the business day following the day on which the document is sent to, or left for, the person to whom it is addressed, subject to the exceptions in subsection (4).” and insert:

on a day prescribed by the regulations.

(2) Delete section 62(4) and insert:

(4) For the purposes of subsection (3), the regulations may prescribe different days for documents served by different methods and in different circumstances.

21. Section 69 amended

After section 69(2) insert:

(3) Regulations may be expressed to apply to or in relation to a transaction the commencement date of which is

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before the day on which the regulations come into operation if the application of the regulations to or in relation to the transaction will not adversely affect a party to the transaction.

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