



Western Australia

First Home Owner Grant Act 2000

First Home Owner Grant Regulations 2000

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Western Australia

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at 23 October 2009

Western Australia

First Home Owner Grant Act 2000

First Home Owner Grant Regulations 2000

1. Citation

These regulations may be cited as the *First Home Owner Grant Regulations 2000*¹.

2. Commencement

These regulations come into operation on 1 July 2000.

3. Term used: interested person

In these regulations —

interested person has the same meaning as it has in section 16 of the Act.

4. Interest of disabled person in home prescribed to be relevant interest (s. 6(1)(h))

(1) If —

(a) a person —

(i) enters into a comprehensive home building contract to have a home built; or

(ii) as an owner builder, begins the building of a home,

on land in the State that is not owned by the person; and

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- (b) the Commissioner is satisfied that —
 - (i) the person is eligible for financial assistance under a scheme that provides financial assistance to persons with disabilities that is administered by the department of the Public Service principally assisting the Minister in the administration of the *Housing Act 1980*; and
 - (ii) the person has been given written permission by the owner of the land to occupy the home when it is completed,

then, for the purposes of section 6(1)(h) of the Act, the interest that the person has in the home is a relevant interest in the land on which the home is built.

- (2) A person who is not eligible for financial assistance under a scheme referred to in subregulation (1)(b)(i) is taken to be eligible for that assistance for the purposes of this regulation if the Commissioner is satisfied that it is only because of the person's financial circumstances that the person is not eligible for that assistance.

5. Interest of occupier of home on primary production land prescribed to be relevant interest (s. 6(1)(h))

- (1) If —
 - (a) a person —
 - (i) enters into a comprehensive home building contract to have a home built; or
 - (ii) as an owner builder, begins the building of a home,on land in the State that is not owned by the person; and
 - (b) the Commissioner is satisfied that —
 - (i) the land is used solely or principally for a primary production business; and

- (ii) the person has been given written permission by the owner of the land to occupy the home when it is completed,

then, for the purposes of section 6(1)(h) of the Act, the interest that the person has in the home is a relevant interest in the land on which the home is built.

- (2) In subregulation (1) —

primary production business means —

- (a) an agricultural, silvicultural or reforestation business; or
- (b) a grazing, horse-breeding, horticultural, viticultural, apicultural, pig-raising or poultry-farming business.

6. Prescribed qualification to completion of eligible transaction (s. 14(6))

An eligible transaction is not completed for the purposes of section 14(6) of the Act unless, in the case of a contract for the purchase of a home in circumstances to which section 14(6)(a)(ii) of the Act applies, each interested person has obtained registration of the person's title to the land on which the home is situated.

7. Certain owners of land excluded from the operation of s. 16(1)

- (1) A person who gives permission for a home to be occupied as mentioned in regulation 4(1)(b)(ii) or 5(1)(b)(ii) is excluded from the operation of section 16(1) of the Act in relation to an application for a first home owner grant in relation to the home.
- (2) A person who is an interested person because the person is a relevant owner of land is excluded from the operation of section 16(1) of the Act if —
 - (a) the home in relation to which the relevant application for a first home owner grant is made is on that land; and

- (b) the person does not have, and will not acquire on the completion of the eligible transaction to which the application relates, the right to occupy that home.
- (2a) A person who owns land is excluded from the operation of section 16(1) of the Act in relation to an application for a first home owner grant in relation to a new home on the land if the Commissioner is satisfied that —
- (a) it is proposed at the commencement date of the eligible transaction that the land on which the home is to be built will be the subject of a strata plan or survey-strata plan registered under the *Strata Titles Act 1985*;
 - (b) the strata plan or survey-strata plan is, or will be, registered as soon as practicable after the eligible transaction is completed; and
 - (c) the person is not, or will not become, as a result of the registration of the strata plan or survey-strata plan, an owner of the home.
- (2b) In subregulation (2a) —
- new home** means a home that is built —
- (a) under a comprehensive home building contract; or
 - (b) by an owner builder.
- (3) If the State Housing Commission is an interested person, that Commission is excluded from the operation of section 16(1) of the Act.
- (4) In this regulation —
- relevant owner of land** means a person who owns land as a tenant in common as described in paragraph (b)(i) of the definition of **home unit** in section 19(1) of the *Land Tax Assessment Act 1976*²;
- State Housing Commission** means the body corporate preserved and continued under section 6 of the *Housing Act 1980*.

[Regulation 7 amended in Gazette 22 Oct 2002 p. 5255-6.]

8. Prescribed rates of interest (s. 30(3), 32(4) and 52(3) and (7))

- (1) The rate of interest for the purposes of section 30(3) of the Act is 6% per annum.
- (2) The rate of interest for the purposes of section 32(4) of the Act is 6% per annum.
- (3) The rate of interest for the purposes of section 52(3) and (7) of the Act is 12% per annum.

[Regulation 8 amended in Gazette 13 Aug 2004 p. 3252; 20 Mar 2007 p. 1048; 14 Mar 2008 p. 837.]

9. Conditions to be included in administration agreements (s. 37(2))

- (1) The conditions that, under subsection (2) of section 37 of the Act, are to be included in the conditions specified in an administration agreement entered into by a financial institution or other person (a *delegate*) under that section are the conditions to which subregulations (2) and (3) apply.
- (2) This subregulation applies to the conditions that a delegate is to —
 - (a) maintain the records in relation to an application for a first home owner grant administered by the delegate;
 - (b) provide the records or copies of the records to the Commissioner when required by the Commissioner to do so and, subject to reasonable notice, allow the Commissioner to have access to and inspect the records at any reasonable time; and
 - (c) retain the records for a period of 5 years after the payment of the first home owner grant to which the application relates.
- (3) This subregulation applies to the condition that a delegate is entitled to retain any interest that accrues on amounts —

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- (a) received by the delegate from the Commissioner for the payment of first home owner grants by the delegate on behalf of the Commissioner; and
 - (b) held in an account used by the delegate solely for the purpose of receiving those amounts and any other amounts approved by the Commissioner.
- (4) In subregulation (2) —
- the records**, in relation to an application for a first home owner grant administered by a delegate, means —
- (a) the original application form;
 - (b) any document that the Commissioner notifies the delegate in writing is a record for the purposes of this paragraph; and
 - (c) any other document given to or created by the delegate that relates to the application.

10. Witness fees and expenses (s. 41(7))

- (1) Subject to subregulation (2), a person who is required to attend for examination under section 41 of the Act (a **witness**) is entitled to be paid —
- (a) a fee determined by the Commissioner according to the time taken by the examination and the amount that the Commissioner considers, by reference to an appropriate publication, to be the average weekly earnings in the State; and
 - (b) if the witness resides more than 7 kilometres from the place where the examination is held — an amount for travelling expenses that the Commissioner considers reasonable and that is not more than the amount paid by the witness.
- (2) If an examination under section 41 of the Act is held in relation to an application for a first home owner grant, subregulation (1) does not apply to a witness who is the applicant or the applicant's spouse or de facto partner.

- (3) In subregulation (1) —
appropriate publication includes material published by the Australian Bureau of Statistics.

[Regulation 10 amended in Gazette 30 Jun 2003 p. 2602.]

11. Authorised receipt and permitted disclosure of confidential information (s. 65(3))

- (1) The Australian Crime Commission established by the *Australian Crime Commission Act 2002* of the Commonwealth is authorised to receive confidential information under section 65(3)(a) of the Act.
- (2) The disclosure of confidential information is permitted under section 65(3)(c) of the Act to the following —
- (a) the Minister, if the disclosure is made for the purposes of the administration of the first home owner grant scheme;
 - [(b) deleted]*
 - (c) an officer of a department of the Public Service that administers a scheme that provides financial assistance in relation to home ownership, if the disclosure is made for the purposes of the administration of the scheme;
 - (d) the Minister responsible for the administration of a scheme referred to in paragraph (c), if the disclosure is made for the purposes of that administration or the formulation of policy in relation to the scheme;
 - (e) a person performing functions delegated to the person by the Commissioner under an administration agreement entered into under section 37 of the Act, if the disclosure is made for the purposes of an application for a first home owner grant administered by that person;
 - (f) the Commissioner of Taxation of the Commonwealth, if the disclosure is made for the purposes of the administration of the *First Home Saver Accounts Act 2008* (Commonwealth);

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- (g) an applicant's agent, if —
 - (i) the agent has apparent authority to act for the applicant in respect of the application or the home the subject of the application; and
 - (ii) the disclosure is made in respect of the application;
 - (h) a person who accesses the information through a protected web site.
- (3) In this regulation —
- confidential information** has the meaning given in section 65(7) of the Act;
- protected web site** means a web site provided by the Commissioner through which information about an application can be accessed by the provision of such identifying details about the applicant, or the application, as are approved by the Commissioner.
- [Regulation 11 amended in Gazette 24 Jul 2001 p. 3732; Act No. 74 of 2004 s. 70; amended in Gazette 23 Dec 2008 p. 5480-1; 4 Aug 2009 p. 3104-5.]*
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Notes

¹ This reprint is a compilation as at 23 October 2009 of the *First Home Owner Grant Regulations 2000* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

Citation	Gazettal	Commencement
<i>First Home Owner Grant Regulations 2000</i>	30 Jun 2000 p. 3433-7	1 Jul 2000 (see r. 2)
<i>First Home Owner Grant Amendment Regulations 2001</i>	24 Jul 2001 p. 3732	24 Jul 2001
<i>First Home Owner Grant Amendment Regulations 2002</i>	22 Oct 2002 p. 5255-6	22 Oct 2002
<i>Equality of Status Subsidiary Legislation Amendment Regulations 2003 Pt. 12</i>	30 Jun 2003 p. 2581-638	1 Jul 2003 (see r. 2 and <i>Gazette</i> 30 Jun 2003 p. 2579)
<i>First Home Owner Grant Amendment Regulations 2004</i>	13 Aug 2004 p. 3251-2	1 Sep 2004 (see r. 2)
<i>Australian Crime Commission (Western Australia) Act 2004 s. 70 assented to 8 Dec 2004</i>		1 Feb 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)
Reprint 1: The <i>First Home Owner Grant Regulations 2000</i> as at 4 Feb 2005 (includes amendments listed above)		
<i>First Home Owner Grant Amendment Regulations 2007</i>	20 Mar 2007 p. 1048	20 Mar 2007
<i>First Home Owner Grant Amendment Regulations 2008</i>	14 Mar 2008 p. 836-7	r. 1 and 2: 14 Mar 2008 (see r. 2(a)); Regulations other than r. 1 and 2: 15 Mar 2008 (see r. 2(b))
<i>First Home Owner Grant Amendment Regulations (No. 3) 2008</i>	23 Dec 2008 p. 5480-1	r. 1 and 2: 23 Dec 2008 (see r. 2(a)); Regulations other than r. 1 and 2: 24 Dec 2008 (see r. 2(b))
<i>First Home Owner Grant Amendment Regulations 2009</i>	4 Aug 2009 p. 3104-5	r. 1 and 2: 4 Aug 2009 (see r. 2(a)); Regulations other than r. 1 and 2: 5 Aug 2009 (see r. 2(b))
Reprint 2: The <i>First Home Owner Grant Regulations 2000</i> as at 23 Oct 2009 (includes amendments listed above)		

² Repealed by the *Taxation Administration (Consequential Provisions) Act 2002* s. 5(d).

Defined Terms

Defined Terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

Defined Term	Provision(s)
appropriate publication	10(3)
confidential information.....	11(3)
delegate	9(1)
interested person	3
new home	7(2b)
primary production business	5(2)
protected web site	11(3)
relevant owner of land	7(4)
State Housing Commission.....	7(4)
the records.....	9(4)
witness	10(1)