



Western Australia

Revenue Laws Amendment Act 2015

As at 02 Oct 2015

No. 27 of 2015

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Revenue Laws Amendment Act 2015

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amended**

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No. 27 of 2015

An Act to amend —

- **the *Duties Act 2008*; and**
- **the *First Home Owner Grant Act 2000*; and**
- **the *Rates and Charges (Rebates and Deferments) Act 1992*.**

[Assented to 2 October 2015]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Revenue Laws Amendment Act 2015*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent (*assent day*);
- (b) the rest of the Act — on the day after assent day.

Part 2 — Amendments about first home owners

Division 1 — *First Home Owner Grant Act 2000* amended

3. Act amended

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

4. Section 3 amended

In section 3(1) in the definition of *eligible transaction* delete “section 14(1);” and insert:

section 14;

5. Section 14 amended

After section 14(4) insert:

- (5A) A contract is not an eligible transaction if —
- (a) it is for the purchase of an established home;
and
 - (b) it has a commencement date on or after the day on which the *Revenue Laws Amendment Act 2015* Part 2 Division 1 comes into operation.

6. Section 14AA amended

In section 14AA(2)(a)(ii) delete “if the” and insert:

unless the interest in the land on which the home is built is a relevant interest mentioned in section 6(1)(e), if the

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Part 2 Amendments about first home owners

Division 1 First Home Owner Grant Act 2000 amended

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7. Section 19 amended

- (1) In section 19(1) insert in alphabetical order:

second amendment day means the day on which the *Revenue Laws Amendment Act 2015* Part 2 Division 1 comes into operation.

- (2) In section 19(1) in the definition of *amendment day* delete “operation.” and insert:

operation;

- (3) In section 19(2B) delete “day,” and insert:

day but before second amendment day,

- (4) After section 19(2B) insert:

(2CA) If the commencement date of an eligible transaction is on or after second amendment day, the amount of a first home owner grant is the lesser of the following —

- (a) \$10 000;
- (b) the consideration for the transaction.

- (5) In section 19(2C) delete “subsection (2B),” and insert:

subsections (2B) and (2CA),

- (6) In section 19(2) delete “subsections (2A), (2B) and (2C),” and insert:

anything else in this section,

Division 2 — Duties Act 2008 amended

8. Act amended

This Division amends the *Duties Act 2008*.

9. Section 141 amended

- (1) In section 141(1) delete the definition of *FHOG concessional transaction*.
- (2) In section 141(1) insert in alphabetical order:

concessional first home owner has the meaning given in section 142A;

deposit, in relation to a terms contract, includes any part of the purchase price which the contract specifies as being a deposit and provides is to be paid, whether in one or more payments, within 28 days of the execution of the contract;

first home owner concessional rate of duty means the concessional rate of duty applicable under section 143;

first home owner concessional transaction has the meaning given in section 142(1);

terms contract means a contract for the sale and purchase of land under which the purchaser is obliged to make 2 or more payments to the vendor (over and above any deposit) before the purchaser is entitled to a conveyance or transfer of the land;

- (3) In section 141(1) in the definitions of *first FHOG concessional transaction* and *further FHOG concessional transaction* delete “*FHOG*”.

10. Section 142A inserted

After section 141 insert:

142A. Concessional first home owners

- (1) A reference in this Division to a concessional first home owner, in relation to the transfer of, or an agreement for the transfer of, dutiable property means —
- (a) a transferee who is paid a first home owner grant in relation to the property or to whom a first home owner grant is or will be payable in relation to the property; or
 - (b) a transferee to whom a first home owner grant would be, or would have been, payable in relation to the property had the requirements of either, or both, of the paragraphs of subsection (2) applied.
- (2) The requirements are —
- (a) consideration had been given for the transfer of the property;
 - (b) if the transaction is a contract for the purchase of an established home, the transaction would be, or would have been, an eligible transaction but for the FHOG Act section 14(5A).
- (3) If a transaction described in subsection (2)(b) is a terms contract then, for the purposes of this section —
- (a) the interest in the property of the transferee as purchaser under the contract is to be taken to be

- a relevant interest, unless the interest does not conform with the FHOG Act section 6(2); and
- (b) the transaction is to be taken to be completed for the purposes of the FHOG Act, despite section 14AA(2)(a)(ii) of that Act, when the purchaser becomes entitled to possession of the home under the contract.

11. Section 142 amended

- (1) In section 142(1) delete “FHOG” and insert:

first home owner

- (2) Delete section 142(1)(a) and insert:

- (a) the transferee, or if there are more than one, each transferee is a concessional first home owner; and

- (3) In section 142(1)(b) delete “eligible transaction to which the first home owner grant relates,” and insert:

transaction

- (4) In section 142(2)

- (a) delete “further FHOG concessional” (each occurrence) and insert:

further concessional

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Part 2 Amendments about first home owners

Division 2 Duties Act 2008 amended

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(b) delete “a FHOG concessional” and insert:

a first home owner concessional

(c) delete “*first FHOG concessional*” and insert:

first concessional

(d) delete “first FHOG concessional” (each occurrence) and insert:

first concessional

Note: The heading to amended section 142 is to read:

First home owner concessional transactions

12. Section 143 amended

(1) In section 143(1) delete “FHOG” and insert:

first home owner

(2) In section 143(2), (3) and (4) delete “FHOG” (each occurrence).

Note: The heading to amended section 143 is to read:

First home owner concessional rate of duty

13. Section 144 amended

(1) In section 144(2)(a) delete “FHOG” (each occurrence) and insert:

first home owner

- (2) In section 144(2)(b) delete “further FHOG” and insert:

further

- (3) In section 144(2)(b)(ii) delete “of a FHOG” and insert:

of a first home owner

Note: The heading to amended section 144 is to read:

Application for first home owner concessional rate of duty

14. Section 145 amended

Delete section 145(1) and insert:

- (1) Despite section 143, duty is not chargeable on a transaction referred to in section 142 at the first home owner concessional rate if —
- (a) a transferee described in section 142A(1)(a) is required to repay an amount under the FHOG Act section 21(2) or 51; or
 - (b) a transferee described in section 142A(1)(b) would be required to repay an amount under the FHOG Act —
 - (i) section 21(2) had a first home owner grant been authorised to be paid to that person under the FHOG Act section 21(1); or
 - (ii) section 51 had a first home owner grant been authorised to be paid to that person under the FHOG Act.
- (2A) For the purposes of subsection (1)(b)(i), a first home owner grant would be, or would have been, authorised

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Division 2 Duties Act 2008 amended

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to be paid under the FHOG Act section 21(1) if the transaction was assessed in anticipation of compliance by the transferee —

- (a) with the residence requirements; or
 - (b) if the requirement under the FHOG Act section 13(4) had already been complied with by the transferee, with the requirement under section 13(1) of that Act.
- (2B) Written notice referred to in the FHOG Act section 21(2)(d) must be given to the Commissioner —
- (a) by a transferee referred to in subsection (1)(b)(i) who would be required to repay an amount under the FHOG Act section 21(2), had a first home owner grant been authorised to be paid to that person under the FHOG Act section 21(1);
 - (b) as if the conditions set out in the FHOG Act section 21(2)(a), (b) or (c) applied in respect of that person.

15. Schedule 3 amended

In Schedule 3 clause 10(1) and (2) delete “FHOG” (each occurrence).

**Part 3 — *Rates and Charges (Rebates and Deferments)*
Act 1992 amended**

16. Act amended

This Part amends the *Rates and Charges (Rebates and Deferments) Act 1992*.

17. Section 40 amended

In section 40(9)(b) delete “concerned;” and insert:

concerned, up to such limit as is prescribed;

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