

SX302*

First Home Owner Grant Act 2000

First Home Owner Grant Regulations 2000

Made by the Administrator in Executive Council.

1. Citation

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

2. Commencement

These regulations come into operation on 1 July 2000.

3. Definition

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
 - (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 section 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.
- (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*;

“State Housing Commission” means the body corporate preserved and continued under section 6 of the *Housing Act 1980*.

8. Prescribed rates of interest (ss 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 9% per annum.
- 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 —
- (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.
- (3) In subregulation (1) —
“appropriate publication” includes material published by the Australian Bureau of Statistics.

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

- (1) The National Crime Authority established under the *National Crime Authority Act 1984* 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 —
 - (a) the Minister, if the disclosure is made for the purposes of the administration of the first home owner grant scheme;
 - (b) the Treasurer or an officer of the Treasury, if the disclosure is made for the purposes of the formulation of policy in relation to the first home owner grant scheme or for purposes relating to the costs of that scheme;
 - (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.
- (3) In this regulation —
“confidential information” has the meaning given in section 65(7) of the Act.

By Command of the Administrator,

ROD SPENCER, Clerk of the Executive Council.