

NORTHERN TERRITORY OF AUSTRALIA
FIRST HOME OWNER GRANT AMENDMENT ACT 2004

Act No. 28 of 2004

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 28 of 2004

AN ACT

to amend the *First Home Owner Grant Act*

[Assented to 28 April 2004]

[Second reading 25 February 2004]

The Legislative Assembly of the Northern Territory enacts as follows:

1. Short title

This Act may be cited as the *First Home Owner Grant Amendment Act 2004*.

2. Commencement

(1) Section 5 is taken to have come into operation on 10 November 2003.

(2) Section 11(e) is taken to have come into operation on the commencement of the *Land Title Act*.

(3) The remaining provisions of this Act come into operation on 1 July 2004.

3. Principal Act

The *First Home Owner Grant Act* is in this Act referred to as the Principal Act.

4. Definitions

Section 3 of the Principal Act is amended by omitting the definition of "residence requirement" and substituting the following:

" 'residence requirements' means the requirements under section 12(1), (1A) and (1B);".

5. Repeal and substitution

Section 8 of the Principal Act is repealed and the following substituted:

"8. Criterion 1 – Applicant to be a natural person and at least 18 years of age

"(1) An applicant for a first home owner grant must be –

- (a) a natural person; and
- (b) at least 18 years of age at the commencement date of the eligible transaction.

"(2) The Commissioner may exempt an applicant from the requirement in subsection (1)(b) if the Commissioner is satisfied –

- (a) the applicant will comply with the residence requirements; and
- (b) the application does not have the effect of circumventing limitations on, or requirements affecting, eligibility for or entitlement to a first home owner grant imposed by or under this Act.

"(3) If an application is made by joint applicants and one of the applicants complies with subsection (1)(b), it is not necessary for the other or others to comply with that paragraph."

6. Criterion 3 – Applicant (or applicant's spouse or de facto partner) must not have received an earlier grant

Section 10 of the Principal Act is amended by omitting subsection (2) and substituting the following:

"(2) However, an applicant is not ineligible under subsection (1) if –

- (a) the grant was later paid back; and
- (b) any amount payable as a penalty or as interest was also paid in relation to the earlier application."

7. Criterion 4 – Applicant (or applicant's spouse or de facto partner) must not have had relevant interest in residential property

Section 11 of the Principal Act is amended by adding at the end the following:

"(4) However, for subsection (3), the applicant or the applicant's spouse or de facto partner is taken not to have used the property as the residence of the applicant or the applicant's spouse or de facto partner if –

- (a) the property was the subject of an earlier application under this Act or a corresponding law by the applicant or the applicant's spouse or de facto partner;
- (b) a first home owner grant was paid under the earlier application; and
- (c) the applicant or the applicant's spouse or de facto partner repaid the grant."

8. Criterion 5 – Residence requirements

Section 12 of the Principal Act is amended –

- (a) by omitting subsection (1) and substituting the following:

"(1) Subject to subsection (1A), an applicant for a first home owner grant must occupy the home to which the application relates as the applicant's principal place of residence for a continuous period of at least 6 months.

"(1A) However, if the Commissioner is satisfied there are special reasons to do so, the Commissioner may approve a shorter period.

"(1B) The period of occupation required under subsection (1), or the shorter period approved under subsection (1A), must start within 12 months after completion of the eligible transaction or a longer period approved by the Commissioner."; and

- (b) by omitting from subsection (2) "residence requirement" (all references) and substituting "residence requirements".

9. Commissioner to decide applications

Section 17 of the Principal Act is amended –

- (a) by omitting from subsection (3) "residence requirement" and substituting "residence requirements";
- (b) by omitting from subsection (3) "that requirement" and substituting "the residence requirements"; and

- (c) by omitting from subsection (3) all the words after "each applicant intends" and substituting "to comply with the residence requirements."

10. Death of applicant

Section 21 of the Principal Act is amended by omitting from subsection (3) all the words after "the Commissioner is satisfied " and substituting "that he or she intended to comply with the residence requirements, the residence requirements are satisfied."

11. Power to recover amount paid in error etc.

Section 41 of the Principal Act is amended –

- (a) by omitting from subsection (1)(b) "residence requirement" and "that requirement" and substituting "residence requirements" and "those requirements" respectively;
- (b) by omitting from subsection (2)(d) "residence requirement" (all references) and substituting "residence requirements";
- (c) by inserting after subsection (3) the following:

"(3A) If a person to whom this section applies fails to pay to the Commissioner the amount of the grant by the last date for payment as specified in subsection (2), the person must pay, in addition to the amount, interest on the unpaid portion of the grant from that date until the date the grant is repaid.

"(3B) In addition to subsection (3A), if the person is required to pay a penalty by a notice under subsection (3) and the person fails to pay the penalty by the last date for payment as specified in subsection (3), the person must pay, in addition to the penalty, interest on the unpaid portion of the penalty calculated from that date until the date the penalty is paid.";

- (d) by omitting from subsection (4) "by subsection (2) or by a notice under subsection (3)" and substituting "under this section";
- (e) by omitting from subsection (5) "a first charge" and substituting "an overriding statutory charge, within the meaning of the *Land Title Act*";
- (f) by omitting from subsection (7) "payable under subsection (3)" and substituting "or interest payable under this section"; and
- (g) by adding at the end the following:

"(12) For subsections (3A), (3B) and (6), interest is an annual rate calculated by adding 7% to the monthly average yield of 90-day bank accepted bills published by the Reserve Bank of Australia for the month of May in the

financial year immediately preceding the financial year in which the liability arose."

12. False statements

Section 42 of the Principal Act is amended –

- (a) by omitting "A person" and substituting "(1) A person";
- (b) by omitting "knowingly"; and
- (c) by adding at the end the following:

"(2) It is a defence to an offence against subsection (1) if the defendant proves that the false statement was made through ignorance or inadvertence."

13. Transitional provision

(1) If an application for a first home owner grant is in respect of an eligible transaction the commencement date of which was before 10 November 2003, the Principal Act as in force on the commencement date continues to apply in relation to the application and the applicant or, if there are 2 or more of them, in relation to each of the applicants as if this Act (other than section 11(e)) had not come into operation.

(2) If an application for a first home owner grant is in respect of an eligible transaction the commencement date of which was on or after 10 November 2003 and before 1 July 2004, the Principal Act as in force on the commencement date continues to apply in relation to the application and the applicant or, if there are 2 or more of them, in relation to each of the applicants as if this Act (other than sections 5 and 11(e)) had not come into operation.

(3) In this section –

"commencement date" has the same meaning as in section 3 of the Principal Act;

"eligible transaction" has the same meaning as in section 3 of the Principal Act;

"first home owner grant" has the same meaning as in section 3 of the Principal Act.