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K Woodward  
Chief Parliamentary Counsel  
Dated 24 July 2023



TASMANIA

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## **FIRST HOME OWNER GRANT ACT 2000**

**No. 19 of 2000**

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### **CONTENTS**

#### **PART 1 – PRELIMINARY**

1. Short title
2. Commencement
3. Interpretation
4. Homes
5. Ownership of land and homes
6. Spouses

#### **PART 2 – FIRST HOME OWNER GRANT**

##### ***Division 1 – Entitlement to grant***

7. Entitlement to grant

##### ***Division 2 – Eligibility criteria (applicants)***

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

9. Criterion 2 – Applicant to be Australian citizen or permanent resident
10. Criterion 3 – Applicant (or applicant’s spouse) must not have received an earlier grant
11. Criterion 4 – Applicant (or applicant’s spouse) must not have had relevant interest in residential property
12. Criterion 5 – Residence and ownership requirement

***Division 3 – Eligible transactions***

13. Eligible transaction

***Division 4 – Application for grant***

14. Application for grant
15. All interested persons to join in application
16. Application on behalf of person under legal disability

***Division 5 – Decision on application***

17. Commissioner to decide applications
18. Amount of grant
- 18A. Conditions on increase of grant
- 18B. Conditions on further increase of grant
- 18C. Conditions on increase of grant
- 18D. Conditions on increase of grant
- 18E. Conditions on increase in grant
- 18F. Conditions on increase in grant
- 18G. Conditions on increase in grant
- 18H. Conditions on increase in grant
- 18I. Conditions on increase in grant
- 18J. Conditions on increase in grant
- 18K. Conditions on increase in grant
19. Payment of grant
20. Payment in anticipation of compliance with residence requirement
21. Conditions generally
22. Death of applicant

23. Power to correct decision

24. Notification of decision

***Division 6 – Objections and appeals***

25. Objections

26. Powers of Commissioner on objection

27. Appeal

28. Limitation on review of decisions

29. Objection or appeal not to stay proceedings based on the relevant decision

**PART 3 – ADMINISTRATION**

***Division 1 – Administration generally***

30. Administration

31. Delegation

31A. Authorised officers

***Division 2 – Investigations***

32. Authorised investigations

33. Cross-border investigation

34. Power of investigation

35. Powers of entry and inspection

36. Self-incrimination

36A. Access to records

**PART 4 – MISCELLANEOUS**

37. False or misleading statements

38. Power to require repayment and impose penalty

39. Power to recover amount paid in error, &c.

39A. Recovery of grants and costs from third parties

40. Protection of confidential information

41. Evidence

42. Time for commencing prosecution

43. Protection of officers, &c.

44. Regulations
45. Administration of Act



## **FIRST HOME OWNER GRANT ACT 2000**

**No. 19 of 2000**

**An Act to encourage and assist home ownership, and to offset the effect of the GST on the acquisition of a first home, by establishing a scheme for the payment of grants to first home owners**

**[Royal Assent 16 June 2000]**

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

### **PART 1 – PRELIMINARY**

#### **1. Short title**

This Act may be cited as the *First Home Owner Grant Act 2000*.

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

s. 2

Part 1 – Preliminary

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**2. Commencement**

This Act commences on 1 July 2000.

**3. Interpretation**

(1) In this Act, unless the contrary intention appears –

*Australian citizen* means an Australian citizen as defined in the *Australian Citizenship Act 1948* of the Commonwealth;

*authorised investigation* has the meaning given by section 32;

*authorised officer* means a person appointed as an authorised officer under section 31A;

*building* includes part of a building;

*commencement date*, in relation to an eligible transaction, has the meaning given by section 13(4);

*Commissioner* means the Commissioner of State Revenue;

*completed*, in relation to an eligible transaction, has the meaning given by section 13(5);

*comprehensive home building contract* means a contract under which a builder undertakes to build a home on land from the inception of the building work to the

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

Part 1 – Preliminary

s. 3

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point where the home is ready for occupation and, if for any reason the work to be carried out under such a contract is not completed, includes any further contract under which the work is to be completed;

***consideration***, in relation to an eligible transaction, has the meaning given by section 13(7);

***corresponding law*** means an Act of another State, or a Territory, corresponding to this Act;

***eligibility criteria*** means the criteria, set out in Division 2 of Part 2, for determining whether an applicant for a first home owner grant is eligible for the grant;

***eligible transaction*** has the meaning given by section 13(1);

***first home owner grant*** means a grant authorised under section 17;

***first home owner grant scheme*** means the scheme for payment of first home owner grants established under this Act;

***function*** includes a power;

***guardian***, in relation to a person under a legal disability, includes a trustee who holds property on trust for the person under an instrument of trust or by order or direction of a court or tribunal;

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

s. 3

Part 1 – Preliminary

---

**home** has the meaning given by section 4;

**new home** means –

- (a) a home that has not previously been occupied or sold as a place of residence; or
- (b) a home that –
  - (i) under section 40-75(1)(b) of the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth, would be considered new residential premises due to substantial renovations; and
  - (ii) has not been occupied or sold as a place of residence since those substantial renovations were completed;

**option** to purchase includes a right of preemption or a right of first refusal;

**owner** means –

- (a) in relation to land, a person who has a relevant interest in the land; and



*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

Part 1 – Preliminary

s. 3

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- (b) in relation to a home, a person who has a relevant interest in the land on which the home is built;

***owner builder*** means an owner of land who builds a home, or has a home built, on the land without entering into a comprehensive home building contract;

***permanent resident*** means –

- (a) the holder of a permanent visa within the meaning of section 30 of the *Migration Act 1958* of the Commonwealth; or
- (b) a New Zealand citizen who holds a special category visa within the meaning of section 32 of the *Migration Act 1958* of the Commonwealth;

***relevant interest*** has the meaning given by section 5(2), (3) and (4);

***residence requirement*** means the requirement that 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 (or any lesser period approved by the Commissioner under section 12(1A)) commencing within the 12-month period immediately after the completion of the eligible transaction or a longer period approved by the Commissioner;

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

s. 4

Part 1 – Preliminary

---

*residential property* has the meaning given by subsection (2);

*spouse* has the meaning given by section 6;

*taxation law* means a law for the assessment or imposition of a tax.

- (2) For the purpose of this Act, land in Australia is residential property at a particular time if there is, at that time, a building on the land lawfully occupied as a place of residence and suitable for occupation as a place of residence.

#### **4. Homes**

A home is a building (affixed to land) that –

- (a) may lawfully be used as a place of residence; and
- (b) is, in the Commissioner's opinion, a suitable building for use as a place of residence.

#### **5. Ownership of land and homes**

- (1) A person is an owner of a home or a home owner if the person has a relevant interest in land on which a home is built.
- (2) Each of the following is, subject to subsection (3), a relevant interest in land:
  - (a) an estate in fee simple in the land;

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

Part 1 – Preliminary

s. 5

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- (b) a life estate in the land approved by the Commissioner;
  - (c) a perpetual lease of the land granted by the Commonwealth or the State;
  - (d) a leasehold interest in the land granted by the Commonwealth or the State that may be converted under the terms of the lease or by statute into an estate in fee simple;
  - (e) an interest as purchaser under a contract for the purchase from the Commonwealth or the State of an estate in fee simple in the land by instalments;
  - (f) a licence or right of occupancy granted by the Commonwealth or the State that gives, in the Commissioner's opinion, the licensee or the holder of the right reasonable security of tenure;
  - (g) an interest in a company's shares if the Commissioner is satisfied that –
    - (i) the interest entitles the holder of the interest to exclusive occupation of a specified home owned by the company; and
    - (ii) the value of the shares is not less than the value of the company's interest in the home.
- (3) Subject to subsection (4) –

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

s. 5

Part 1 – Preliminary

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- (a) an interest is not a relevant interest at a particular time unless the holder of the interest has, or will have within 12 months after that time (or a longer time allowed by the Commissioner), a right to immediate occupation of the land; and
  - (b) an interest is not a relevant interest in the hands of a person who holds it subject to a trust; and
  - (c) an equitable interest is not a relevant interest unless it is the interest of a person under a legal disability for whom a guardian holds the interest on trust.
- (4) The Commissioner may recognise an interest (a non-conforming interest) as a relevant interest in land even though the interest may not conform with subsections (2) and (3) (and even though the interest may not be recognised at law or in equity as an interest in land) if there is, in the Commissioner's opinion, good reason to do so.
- (5) If the Commissioner recognises a non-conforming interest as a relevant interest in land and, in consequence, a first home owner grant is to be paid, the Commissioner may impose appropriate conditions on the payment of the grant to ensure its recovery if suppositions about future conduct or events made by the Commissioner in recognising the interest later prove to be incorrect.

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

Part 1 – Preliminary

s. 6

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**6. Spouses**

- (1) A person is the spouse of another if –
  - (a) they are legally married; or
  - (b) they are in a significant relationship, within the meaning of the *Relationships Act 2003*.
- (2) If the Commissioner is satisfied that, at the time of deciding an application for a first home owner grant, an applicant –
  - (a) is legally married but not cohabiting with the person to whom the applicant is legally married; and
  - (b) has no intention of resuming cohabitation –

the person to whom the applicant is legally married is not to be regarded as the applicant's spouse.

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

s. 7

Part 2 – First home owner grant

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**PART 2 – FIRST HOME OWNER GRANT**

*Division 1 – Entitlement to grant*

**7. Entitlement to grant**

- (1) A first home owner grant is payable on an application under this Act if –
  - (a) the applicant or, if there are 2 or more of them, each of the applicants complies with the eligibility criteria; and
  - (b) the transaction for which the grant is sought –
    - (i) is an eligible transaction; and
    - (ii) has been completed.
- (2) Despite subsection (1)(a), an applicant need not comply with the eligibility criteria to the extent the applicant is exempted from compliance by or under this Act.
- (3) Only one first home owner grant is payable for the same eligible transaction.
- (4) A first home owner grant is not payable in respect of a transaction if the Tasmanian HomeBuilder grant, within the meaning of the *HomeBuilder Grants Act 2020*, has been paid in respect of the transaction.

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

Part 2 – First home owner grant

s. 8

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*Division 2 – Eligibility criteria (applicants)*

**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.
- (2) The Commissioner may exempt an applicant from the requirement in subsection (1)(b) if the Commissioner is satisfied that –
  - (a) the home to which the application relates will be occupied by the applicant as his or her principal place of residence for a continuous period of at least 6 months (or any lesser period approved by the Commissioner under section 12(1A)) commencing within the 12-month period immediately after completion of the eligible transaction or within a longer period approved by the Commissioner; and
  - (b) the application does not form part of a scheme to circumvent limitations on, or requirements affecting, eligibility for or entitlement to a first home owner grant.

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

s. 9

Part 2 – First home owner grant

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**9. Criterion 2 – Applicant to be Australian citizen or permanent resident**

- (1) Subject to subsection (2), an applicant for a first home owner grant must be an Australian citizen or a permanent resident.
- (2) If an application is made by joint applicants and one of the applicants is an Australian citizen or a permanent resident, it is not necessary for the other or others to be Australian citizens or permanent residents.

**10. Criterion 3 – Applicant (or applicant’s spouse) must not have received an earlier grant**

- (1) Subject to subsection (2), an applicant is ineligible if –
  - (a) the applicant or the applicant’s spouse has been a party to an earlier application under this Act or a corresponding law; and
  - (b) a grant was paid on the application.
- (2) An applicant is not ineligible if the grant was paid but later paid back.

**11. Criterion 4 – Applicant (or applicant’s spouse) must not have had relevant interest in residential property**

- (1) An applicant is ineligible if the applicant or the applicant’s spouse has, before 1 July 2000, held –



*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

Part 2 – First home owner grant

s. 12

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- (a) a relevant interest in residential property in Tasmania; or
  - (b) an interest in residential property in another State or a Territory that is a relevant interest under the corresponding law of that State or Territory.
- (2) In working out for the purposes of subsection (1) whether an applicant held a relevant interest (within the meaning of this Act or a corresponding law) in residential property at a particular time, any deferment of the applicant's right of occupation (because the property was subject to a lease) is to be disregarded.
- (3) An applicant is also ineligible if the applicant or the applicant's spouse has, at any time before the commencement date of the eligible transaction to which the application relates –
- (a) held a relevant interest in residential property in Tasmania or an interest in residential property in another State or a Territory that is a relevant interest under the corresponding law of that State or Territory; and
  - (b) occupied the property as a place of residence for a continuous period of at least 6 months.

**12. Criterion 5 – Residence and ownership requirement**

- (1) An applicant for a first home owner grant must occupy the home to which the application relates

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

s. 12

Part 2 – First home owner grant

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as the applicant’s principal place of residence for a continuous period of at least 6 months (or any lesser period approved by the Commissioner under subsection (1A)) commencing within the 12-month period immediately after completion of the eligible transaction or within a longer period approved by the Commissioner.

- (1A) The Commissioner may approve a lesser period of occupation under subsection (1) if the Commissioner is satisfied that there are good reasons why the applicant cannot comply with the requirement to occupy the home for 6 months.
- (1B) A decision to approve a lesser period of occupation, or to approve a longer period before occupation is commenced, may be made at any time before a decision on the application has been reversed or varied under section 23.
- (2) The Commissioner may exempt an applicant (the “non-complying applicant”) from the residence requirement if –
  - (a) the applicant is one of 2 or more joint applicants for a first home owner grant; and
  - (b) at least one of the applicants complies with the residence requirement; and
  - (c) there are, in the Commissioner’s opinion, good reasons to exempt the non-complying applicant from the residence requirement.

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

Part 2 – First home owner grant

s. 13

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- (3) An applicant must retain his or her relevant interest in the land to which the application relates until the residence requirement has been satisfied.

*Division 3 – Eligible transactions*

**13. Eligible transaction**

- (1) An eligible transaction is any of the following:
- (a) a contract made on or after 1 July 2000 and before 1 July 2014 for the purchase of a home in the State;
  - (ab) a contract made on or after 1 July 2000 for the purchase of a new home in the State;
  - (b) a comprehensive home building contract made on or after 1 July 2000 by the owner of land in the State, or a person who will, on completion of the contract, be the owner of land in the State, to have a home built on the land;
  - (c) the building of a home in the State by an owner builder if the building work commences on or after 1 July 2000.
- (2) A contract is a contract for the purchase of a home if the contract is a contract for the acquisition of a relevant interest in land on which a home is built.
- (3) A contract is not an eligible transaction if the Commissioner is of the opinion that it forms part

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

s. 13

Part 2 – First home owner grant

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of a scheme to circumvent limitations on, or requirements affecting, eligibility or entitlement to a first home owner grant and the Commissioner will, unless satisfied to the contrary, presume the existence of such a scheme if –

- (a) in the case of a contract to purchase a home, the purchaser had an option to purchase the home granted before 1 July 2000 or the vendor had an option to require the purchaser to purchase the home granted before that date; or
  - (b) in the case of a comprehensive home building contract, either party had a right or option granted before 1 July 2000 to require the other to enter into the contract.
- (4) The commencement date of an eligible transaction is –
- (a) in the case of a contract, the date when the contract is made; or
  - (b) in the case of the building of a home by an owner builder –
    - (i) the date when laying the foundations for the home commences; or
    - (ii) another date the Commissioner considers appropriate in the circumstances of the case.

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

Part 2 – First home owner grant

s. 13

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- (5) Subject to any qualifications prescribed by regulation, an eligible transaction is completed when –
- (a) in the case of a contract for the purchase of a home –
    - (i) the purchaser becomes entitled to possession of the home under the contract; and
    - (ii) if the purchaser is to obtain a registered title to the land on which the home is situated, the necessary steps to obtain registration of the purchaser's title have been taken; or
  - (b) in the case of a contract to have a home built, the building is ready for occupation as a place of residence; or
  - (c) in the case of the building of a home by an owner builder, the building is ready for occupation as a place of residence.
- (6) If a person purchases a moveable building (being, if the moveable building is purchased after the day on which the amendment to this subsection made by the *Taxation and Related Legislation (Miscellaneous Amendments) Act 2016* commences, a new moveable building) and intends to use it as a place of residence on land in which the person has a relevant interest but on which it is not situated at the time of purchase –

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

s. 14

Part 2 – First home owner grant

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- (a) this Act applies as if the person were an owner builder building a home on the land; and
  - (b) the commencement date of the transaction is taken to be the date of the contract to purchase the moveable building; and
  - (c) the transaction is taken to be completed when the moveable building is ready for occupation as a place of residence on land in which the purchaser has a relevant interest.
- (7) The consideration for an eligible transaction is –
- (a) in the case of a contract for the purchase of a home, the consideration for the purchase; or
  - (b) in the case of a comprehensive home building contract, the total consideration payable for the building work; or
  - (c) in the case of the building of a home by an owner builder, the actual costs to the owner of carrying out the work (excluding any allowance for the owner builder's own labour).

***Division 4 – Application for grant***

**14. Application for grant**

- (1) An application for a first home owner grant is to be made to the Commissioner.

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

Part 2 – First home owner grant

s. 14

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- (2) An application –
  - (a) must be in a form approved by the Commissioner; and
  - (b) must contain the information required by the Commissioner.
- (3) An applicant must provide the Commissioner with any further information the Commissioner requires to decide the application.
- (4) Information provided by an applicant in or in relation to an application must, if the Commissioner so requires, be verified by statutory declaration or supported by other evidence required by the Commissioner.
- (5) An application may only be made within a period (the “application period”) –
  - (a) commencing on the commencement date of the eligible transaction to which the application relates; and
  - (b) ending 12 months after the completion of the eligible transaction to which the application relates.
- (6) However, the Commissioner has a discretion to allow an application before or after the application period.
- (7) An applicant may, with the Commissioner’s consent, amend an application.

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

s. 15

Part 2 – First home owner grant

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**15. All interested persons to join in application**

- (1) All interested persons must be applicants.
- (2) An interested person is a person who is, or will be, on completion of the eligible transaction to which the application relates, an owner of the relevant home except such a person who is excluded from the application of this section under the regulations.

**16. Application on behalf of person under legal disability**

- (1) An application may be made on behalf of a person under a legal disability by a guardian.
- (2) For the purpose of determining eligibility, the person under the legal disability is to be regarded as the applicant.

*Division 5 – Decision on application*

**17. Commissioner to decide applications**

- (1) If the Commissioner is satisfied that a first home owner grant is payable on an application, the Commissioner must authorise the payment of the grant.
- (2) The Commissioner may authorise the payment of a first home owner grant before completion of the eligible transaction if satisfied that –
  - (a) there are good reasons for doing so; and



*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

Part 2 – First home owner grant

s. 18

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- (b) the interests of the State can be adequately protected by conditions requiring repayment of the grant if the transaction is not completed within a reasonable time.

**18. Amount of grant**

- (1) The amount of a first home owner grant is the lesser of the following:
  - (a) the consideration for the eligible transaction;
  - (b) the amount specified in subsection (2).

**Note:** Where the consideration is zero, a grant is not payable.

- (2) For subsection (1)(b) –
  - (a) if the first home owner grant relates to an eligible transaction that satisfies section 18A, the amount is \$15 000; or
  - (ab) if the first home owner grant relates to an eligible transaction that satisfies section 18B, the amount is \$30 000; or
  - (ac) if the first home owner grant relates to an eligible transaction that satisfies section 18C, the amount is \$20 000; or
  - (ad) if the first home owner grant relates to an eligible transaction that satisfies section 18D, the amount is \$20 000; or

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

s. 18

Part 2 – First home owner grant

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- (ae) if the first home owner grant relates to an eligible transaction that satisfies section 18E, the amount is \$20 000; or
- (af) if the first home owner grant relates to an eligible transaction that satisfies section 18F, the amount is \$20 000; or
- (ag) if the first home owner grant relates to an eligible transaction that satisfies section 18G, the amount is \$20 000; or
- (ah) if the first home owner grant relates to an eligible transaction that satisfies section 18H, the amount is \$20 000; or
- (ai) if the first home owner grant relates to an eligible transaction that satisfies section 18I, the amount is \$30 000; or
- (aj) if the first home owner grant relates to an eligible transaction that satisfies section 18J, the amount is \$30 000; or
- (ak) if the first home owner grant relates to an eligible transaction that satisfies section 18K, the amount is \$30 000; or
- (b) if the first home owner grant relates to an eligible transaction that does not satisfy section 18A, 18B, 18C, 18D, 18E, 18F, 18G, 18H, 18I, 18J or 18K, the amount is –
  - (i) if the eligible transaction commenced on or before 30 June 2015, \$7 000; and

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

Part 2 – First home owner grant

s. 18A

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- (ii) if the eligible transaction commenced on or after 1 July 2015, \$10 000.

**18A. Conditions on increase of grant**

- (1) In this section –

*commencement of building* means the date of completion of the laying of the foundations for the building or, if no foundations are to be laid, a date determined by the Commissioner;

*contract for an off-the-plan purchase*, in relation to a new home, means a contract for both –

- (a) the purchase of land, or an interest in land; and
- (b) the construction of a new home on that land.

- (2) An eligible transaction satisfies this section if –

- (a) the commencement date of the eligible transaction is on or after 1 January 2013 but before 7 November 2013; and
- (b) where the eligible transaction is –
  - (i) a comprehensive home building contract for a new home –
    - (A) the commencement of building under the

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

s. 18A

Part 2 – First home owner grant

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comprehensive home building contract occurs within 26 weeks of the date of the contract; and

(B) the eligible transaction is completed in accordance with section 13(5) within 24 months after the commencement of building under the comprehensive home building contract; or

(ii) the building of a new home by an owner builder –

(A) the commencement of building occurs on or after 1 January 2013 but before 7 November 2013; and

(B) the eligible transaction is completed in accordance with section 13(5) within 24 months after the commencement of building; or

(iii) a contract for an off-the-plan purchase of a new home –

(A) the commencement of building occurs on or after 1 January 2013 but before 7 November 2013; and

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

Part 2 – First home owner grant

s. 18A

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- (B) the eligible transaction is completed in accordance with section 13(5) within 24 months after the commencement of building; or
    - (iv) a contract for the purchase of a new home, the eligible transaction is completed in accordance with section 13(5).
- (2A) If satisfied there are good reasons to do so and if a request by the applicant is made before a decision on the application has been reversed or varied under section 23, the Commissioner may –
  - (a) extend the period referred to in subsection (2) for the commencement of building notwithstanding that that period has expired; or
  - (b) extend the period referred to in subsection (2) for the eligible transaction to complete notwithstanding that that period has expired.
- (3) Despite subsection (2), an eligible transaction does not satisfy this section if the Commissioner considers that the eligible transaction replaces a transaction, entered into before 1 January 2013, for the same property between substantially, or that benefits substantially, the same parties.
- (4) For the avoidance of doubt, a payment under this Act of \$15 000 that –

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

s. 18B

Part 2 – First home owner grant

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- (a) was made in anticipation of Part 3 of the *Jobs Package (Miscellaneous Amendments) Act 2013* receiving the Royal Assent; and
- (b) was made after 1 January 2013 but before Part 3 of the *Jobs Package (Miscellaneous Amendments) Act 2013* received the Royal Assent –

is taken to be a first home owner grant payment for the purposes of this Act.

**18B. Conditions on further increase of grant**

- (1) In this section –

*commencement of building* means the date of completion of the laying of the foundations for the building or, if no foundations are to be laid, a date determined by the Commissioner;

*contract for an off-the-plan purchase*, in relation to a new home, means a contract for both –

- (a) the purchase of land, or an interest in land; and
- (b) the construction of a new home on that land.

- (2) An eligible transaction satisfies this section if –

- (a) the commencement date of the eligible transaction is on or after

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

Part 2 – First home owner grant

**s. 18B**

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7 November 2013 but before  
1 January 2015; and

- (b) where the eligible transaction is –
- (i) a comprehensive home building contract for a new home –
    - (A) the commencement of building under the comprehensive home building contract occurs within 26 weeks of the date of the contract; and
    - (B) the eligible transaction is completed in accordance with section 13(5) within 24 months after the commencement of building under the comprehensive home building contract; or
  - (ii) the building of a new home by an owner builder –
    - (A) the commencement of building occurs on or after 7 November 2013 but before 1 January 2015; and
    - (B) the eligible transaction is completed in accordance with section 13(5) within 24 months after the

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

**s. 18B**

Part 2 – First home owner grant

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- commencement of building; or
- (iii) a contract for an off-the-plan purchase of a new home –
- (A) the commencement of building occurs on or after 7 November 2013 but before 1 January 2015; and
  - (B) the eligible transaction is completed in accordance with section 13(5) within 24 months after the commencement of building; or
- (iv) a contract for the purchase of a new home, the eligible transaction is completed in accordance with section 13(5).
- (3) If satisfied there are good reasons to do so and if a request by the applicant is made before a decision on the application has been reversed or varied under section 23, the Commissioner may –
- (a) extend the period referred to in subsection (2) for the commencement of building notwithstanding that that period has expired; or
  - (b) extend the period referred to in subsection (2) for the eligible transaction



*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

Part 2 – First home owner grant

s. 18C

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to complete notwithstanding that that period has expired.

- (4) Despite subsection (2), an eligible transaction does not satisfy this section if the Commissioner considers that the eligible transaction replaces a transaction, entered into before 7 November 2013, for the same property between substantially, or that benefits substantially, the same parties.
- (5) For the avoidance of doubt, a payment of \$30 000 that –
  - (a) was made in anticipation of the *First Home Owner Grant Amendment Act 2014* receiving the Royal Assent; and
  - (b) was made on or after 7 November 2013 but before the *First Home Owner Grant Amendment Act 2014* received the Royal Assent –

is taken to be a first home owner grant payment for the purposes of this Act.

**18C. Conditions on increase of grant**

- (1) In this section –

*commencement of building* means the date of completion of the laying of the foundations for the building or, if no foundations are to be laid, a date determined by the Commissioner;

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

s. 18C

Part 2 – First home owner grant

---

*contract for an off-the-plan purchase*, in relation to a new home, means a contract for both –

- (a) the purchase of land, or an interest in land; and
  - (b) the construction of a new home on that land.
- (2) An eligible transaction satisfies this section if –
- (a) the commencement date of the eligible transaction is on or after 1 January 2015 but before 1 January 2016; and
  - (b) where the eligible transaction is –
    - (i) a comprehensive home building contract for a new home –
      - (A) the commencement of building under the comprehensive home building contract occurs within 26 weeks of the date of the contract; and
      - (B) the eligible transaction is completed in accordance with section 13(5) within 24 months after the commencement of building under the comprehensive home building contract; or

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

Part 2 – First home owner grant

s. 18C

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- (ii) the building of a new home by an owner builder –
    - (A) the commencement of building occurs on or after 1 January 2015 but before 1 January 2016; and
    - (B) the eligible transaction is completed in accordance with section 13(5) within 24 months after the commencement of building; or
  - (iii) a contract for an off-the-plan purchase of a new home –
    - (A) the commencement of building occurs on or after 1 January 2015 but before 1 January 2016; and
    - (B) the eligible transaction is completed in accordance with section 13(5) within 24 months after the commencement of building; or
  - (iv) a contract for the purchase of a new home, the eligible transaction is completed in accordance with section 13(5).
- (3) If satisfied there are good reasons to do so and if a request by the applicant is made before a

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

s. 18D

Part 2 – First home owner grant

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decision on the application has been reversed or varied under section 23, the Commissioner may –

- (a) extend the period referred to in subsection (2) for the commencement of building notwithstanding that that period has expired; or
  - (b) extend the period referred to in subsection (2) for the eligible transaction to complete notwithstanding that that period has expired.
- (4) Despite subsection (2), an eligible transaction does not satisfy this section if the Commissioner considers that the eligible transaction replaces a transaction, entered into before 1 January 2015, for the same property between substantially, or that benefits substantially, the same parties.

**18D. Conditions on increase of grant**

- (1) In this section –

*contract for an off-the-plan purchase*, in relation to a new home, means a contract for both –

- (a) the purchase of land or an interest in land; and
  - (b) the construction of a new home on that land.
- (2) An eligible transaction satisfies this section if –

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

Part 2 – First home owner grant

s. 18D

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- (a) the commencement date of the eligible transaction is on or after 1 July 2016 but before 1 July 2017; and
  - (b) the eligible transaction is completed in accordance with section 13(5) within 24 months after the commencement date of the eligible transaction.
- (3) If satisfied there are good reasons to do so and if a request by the applicant is made before a decision on the application has been varied or reversed under section 23, the Commissioner may extend the period referred to in subsection (2) for the eligible transaction to be completed even though the period has expired.
- (4) Despite subsection (2), an eligible transaction does not satisfy this section if the Commissioner considers that the eligible transaction replaces a transaction, entered into before 1 July 2016, that is for the same property and that is between substantially, or that benefits substantially, the same parties.
- (5) For the avoidance of doubt, a payment of \$20 000 that –
- (a) was made in anticipation of Part 4 of the *Taxation and Related Legislation (Miscellaneous Amendments) Act 2016* receiving the Royal Assent; and
  - (b) was made on or after 1 July 2016 but before the *Taxation and Related Legislation (Miscellaneous Amendments) Act 2016* received the Royal Assent –

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

s. 18E

Part 2 – First home owner grant

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is taken to be a first home owner grant payment, for the purposes of this Act, made in relation to an eligible transaction to which this section, as amended by that Act, applies.

**18E. Conditions on increase in grant**

- (1) An eligible transaction satisfies this section if –
  - (a) the commencement date of the eligible transaction is on or after 1 July 2017 but before 1 July 2018; and
  - (b) the eligible transaction is completed in accordance with section 13(5) within 24 months after the commencement date of the eligible transaction.
- (2) If satisfied there are good reasons to do so and if a request by the applicant is made before a decision on the application has been varied or reversed under section 23, the Commissioner may extend the period referred to in subsection (1) for the eligible transaction to be completed, even though the period has expired.
- (3) Despite subsection (1), an eligible transaction does not satisfy this section if the Commissioner considers that the eligible transaction replaces a transaction, entered into before 1 July 2017, that is for the same property and that is between substantially, or that benefits substantially, the same parties.
- (4) For the avoidance of doubt, a payment of \$20 000 that –

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

Part 2 – First home owner grant

s. 18F

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- (a) was made in anticipation of the *Taxation and Grants Legislation (Housing Construction Amendments) Act 2017* commencing; and
- (b) was made on or after 1 July 2017 but before the *Taxation and Grants Legislation (Housing Construction Amendments) Act 2017* commenced –

is taken to be a first home owner grant payment, for the purposes of this Act, made in relation to an eligible transaction to which this section, as amended by that Act, applies.

**18F. Conditions on increase in grant**

- (1) An eligible transaction satisfies this section if –
  - (a) the commencement date of the eligible transaction is on or after 1 July 2018 but before 1 July 2019; and
  - (b) the eligible transaction is completed in accordance with section 13(5) within 24 months after the commencement date of the eligible transaction.
- (2) If satisfied there are good reasons to do so and if a request by the applicant is made before a decision on the application has been varied or reversed under section 23, the Commissioner may extend the period referred to in subsection (1) for the eligible transaction to be completed, even though the period has expired.

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

s. 18G

Part 2 – First home owner grant

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- (3) Despite subsection (1), an eligible transaction does not satisfy this section if the Commissioner considers that the eligible transaction replaces a transaction, entered into before 1 July 2018, that is for the same property and that is between substantially, or that benefits substantially, the same parties.
- (4) For the avoidance of doubt, a payment of \$20 000 that –
  - (a) was made in anticipation of the *Taxation Related Legislation (Housing Availability and Payroll Relief) Act 2018* receiving the Royal Assent; and
  - (b) was made on or after 1 July 2018 but before the *Taxation Related Legislation (Housing Availability and Payroll Relief) Act 2018* received the Royal Assent –

is taken to be a first home owner grant payment, for the purposes of this Act, made in relation to an eligible transaction to which this section, as inserted by that Act, applies.

**18G. Conditions on increase in grant**

- (1) An eligible transaction satisfies this section if –
  - (a) the commencement date of the eligible transaction is on or after 1 July 2019 but before 1 July 2020; and
  - (b) the eligible transaction is completed in accordance with section 13(5) within 24



*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

Part 2 – First home owner grant

s. 18G

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months after the commencement date of the eligible transaction.

- (2) If satisfied there are good reasons to do so and if a request by the applicant is made before a decision on the application has been varied or reversed under section 23, the Commissioner may extend the period referred to in subsection (1) for the eligible transaction to be completed, even though the period has expired.
- (3) Despite subsection (1), an eligible transaction does not satisfy this section if the Commissioner considers that the eligible transaction replaces a transaction, entered into before 1 July 2019, that is for the same property and that is between substantially, or that benefits substantially, the same parties.
- (4) For the avoidance of doubt, a payment of \$20 000 that –
  - (a) was made in anticipation of the *First Home Owner Grant Amendment Act 2019* receiving the Royal Assent; and
  - (b) was made on or after 1 July 2019 but before the *First Home Owner Grant Amendment Act 2019* received the Royal Assent –

is taken to be a first home owner grant payment, for the purposes of this Act, made in relation to an eligible transaction to which this section, as inserted by that Act, applies.

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

s. 18H

Part 2 – First home owner grant

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**18H. Conditions on increase in grant**

- (1) An eligible transaction satisfies this section if –
  - (a) the commencement date of the eligible transaction is on or after 1 July 2020 but before 1 April 2021; and
  - (b) the eligible transaction is completed in accordance with section 13(5) within 24 months after the commencement date of the eligible transaction.
- (2) If satisfied there are good reasons to do so and if a request by the applicant is made before a decision on the application has been varied or reversed under section 23, the Commissioner may extend the period referred to in subsection (1) for the eligible transaction to be completed, even though the period has expired.
- (3) Despite subsection (1), an eligible transaction does not satisfy this section if the Commissioner considers that the eligible transaction replaces a transaction, entered into before 1 July 2020, that is for the same property and that is between substantially, or that benefits substantially, the same parties.
- (4) For the avoidance of doubt, a payment of \$20 000 that –
  - (a) was made in anticipation of the *Taxation and Related Legislation (Miscellaneous Amendments) Act 2020* receiving the Royal Assent; and

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

Part 2 – First home owner grant

s. 18I

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- (b) was made on or after 1 July 2020 but before the *Taxation and Related Legislation (Miscellaneous Amendments) Act 2020* received the Royal Assent –

is taken to be a first home owner grant payment, for the purposes of this Act, made in relation to an eligible transaction to which this section, as inserted by that Act, applies.

**18I. Conditions on increase in grant**

- (1) An eligible transaction satisfies this section if –
- (a) the commencement date of the eligible transaction is on or after 1 April 2021 but before 1 July 2022; and
  - (b) the eligible transaction is completed in accordance with section 13(5) within 24 months after the commencement date of the eligible transaction.
- (2) If satisfied there are good reasons to do so and if a request by the applicant is made before a decision on the application has been varied or reversed under section 23, the Commissioner may extend the period referred to in subsection (1) for the eligible transaction to be completed, even though the period has expired.
- (3) Despite subsection (1), an eligible transaction does not satisfy this section if the Commissioner considers that the eligible transaction replaces a transaction, entered into before 1 April 2021, that is for the same property and that is between

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

s. 18J

Part 2 – First home owner grant

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substantially, or that benefits substantially, the same parties.

- (4) For the avoidance of doubt, a payment of \$30 000 that –
- (a) was made in anticipation of the *Treasury Miscellaneous (Cost of Living and Affordable Housing Support) Bill 2021* receiving the Royal Assent; and
  - (b) was made on or after 1 April 2021 but before the *Treasury Miscellaneous (Cost of Living and Affordable Housing Support) Bill 2021* received the Royal Assent –

is taken to be a first home owner grant payment, for the purposes of this Act, made in relation to an eligible transaction to which this section, as inserted by that Act, applies.

**18J. Conditions on increase in grant**

- (1) An eligible transaction satisfies this section if –
- (a) the commencement date of the eligible transaction is on or after 1 July 2022 but before 1 July 2023; and
  - (b) the eligible transaction is completed in accordance with section 13(5) within 24 months after the commencement date of the eligible transaction.
- (2) If satisfied there are good reasons to do so and if a request by the applicant is made before a

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

Part 2 – First home owner grant

**s. 18K**

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decision on the application has been varied or reversed under section 23, the Commissioner may extend the period referred to in subsection (1) for the eligible transaction to be completed, even though the period has expired.

- (3) Despite subsection (1), an eligible transaction does not satisfy this section if the Commissioner considers that the eligible transaction replaces a transaction, entered into before 1 July 2022, that is for the same property and that is between substantially, or that benefits substantially, the same parties.
- (4) For the avoidance of doubt, a payment of \$30 000 that –
  - (a) was made in anticipation of the *Treasury Miscellaneous (Affordable Housing and Youth Employment Support) Act 2022* receiving the Royal Assent; and
  - (b) was made on or after 1 July 2022 but before the *Treasury Miscellaneous (Affordable Housing and Youth Employment Support) Act 2022* received the Royal Assent –

is taken to be a first home owner grant payment, for the purposes of this Act, made in relation to an eligible transaction to which this section, as inserted by that Act, applies.

**18K. Conditions on increase in grant**

- (1) An eligible transaction satisfies this section if –

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

s. 18K

Part 2 – First home owner grant

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- (a) the commencement date of the eligible transaction is on or after 1 July 2023 but before 1 July 2024; and
  - (b) the eligible transaction is completed in accordance with section 13(5) within 24 months after the commencement date of the eligible transaction.
- (2) If satisfied there are good reasons to do so and if a request by the applicant is made before a decision on the application has been varied or reversed under section 23, the Commissioner may extend the period referred to in subsection (1) for the eligible transaction to be completed, even though the period has expired.
- (3) Despite subsection (1), an eligible transaction does not satisfy this section if the Commissioner considers that the eligible transaction replaces a transaction, entered into before 1 July 2023, that is for the same property and that is between substantially, or that benefits substantially, the same parties.
- (4) For the avoidance of doubt, a payment of \$30 000 that –
- (a) was made in anticipation of the *Taxation and Miscellaneous Amendments Act 2023* receiving the Royal Assent; and
  - (b) was made on or after 1 July 2023 but before the *Taxation and Miscellaneous Amendments Act 2023* received the Royal Assent –

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

Part 2 – First home owner grant

s. 19

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is taken to be a first home owner grant payment, for the purposes of this Act, made in relation to an eligible transaction to which this section, as inserted by that Act, applies.

**19. Payment of grant**

- (1) A first home owner grant is to be paid by electronic funds transfer, by cheque or in any other way the Commissioner thinks appropriate.
- (2) A first home owner grant is to be paid –
  - (a) to the applicant; or
  - (b) to some other person to whom the applicant directs in writing that the grant be paid.
- (3) If the applicant requests, the Commissioner may apply the amount of a first home owner grant, or part of the amount, towards a liability for State taxes, fees or charges.

**20. Payment in anticipation of compliance with residence requirement**

- (1) The Commissioner may authorise payment of a first home owner grant in anticipation of compliance with the residence requirement if the Commissioner is satisfied that each applicant who is required to comply, but has not yet complied with the residence requirement, intends to occupy the home as his or her principal place of residence for a continuous period of at least 6 months (or any lesser period approved by the

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

s. 20

Part 2 – First home owner grant

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Commissioner under section 12(1A)) commencing within the 12-month period immediately after completion of the eligible transaction or within a longer period allowed by the Commissioner.

- (2) If a first home owner grant is paid in anticipation of compliance with the residence requirement, the payment is made on condition that, if the residence requirement is not complied with, the applicant must within 14 days after the relevant date –
  - (a) give written notice of that fact to the Commissioner; and
  - (b) repay the amount of the grant.
- (3) For the purpose of subsection (2), the relevant date is the earlier of the following:
  - (a) the end of the period allowed for compliance with the residence requirement;
  - (b) the date on which it first becomes apparent that the residence requirement will not be complied with during the period allowed for compliance.
- (3A) If a first home owner grant is paid in anticipation of compliance with the residence requirement and an applicant ceases to retain his or her relevant interest in the land before satisfying the residence requirement, the applicant must, within 14 days after ceasing to retain his or her relevant interest –



*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

Part 2 – First home owner grant

s. 21

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(a) give written notice of that fact to the Commissioner; and

(b) repay the amount of the grant –

unless the Commissioner has exempted the applicant from the residence requirement in accordance with section 12(2).

(4) A person who fails to comply with a condition prescribed by subsection (2) or subsection (3A) is guilty of an offence.

Penalty: Fine not exceeding 100 penalty units.

**21. Conditions generally**

(1) The Commissioner may authorise the payment of a first home owner grant on conditions the Commissioner considers appropriate.

(2) A condition imposed by the Commissioner (under this section or any other provision of this Act) may require a person on whose application the first home owner grant is paid –

(a) to give notice of non-compliance with the condition within a period stated in the condition; and

(b) to repay the grant within a period stated in the condition.

(3) In the case of a joint application, each applicant is individually liable to comply with a requirement under subsection (2) but compliance

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

s. 22

Part 2 – First home owner grant

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by any one or more of them is to be regarded as compliance by both or all.

- (4) A person who fails to comply with a condition imposed by the Commissioner (under this section or any other provision of this Act) is guilty of an offence.

Penalty: Fine not exceeding 100 penalty units.

**22. Death of applicant**

- (1) An application for a first home owner grant does not lapse because an applicant dies before the application is decided.
- (2) If an applicant dies before the application is decided, the following provisions apply:
- (a) if the deceased was one of 2 or more applicants and one or more applicants survive, the application is to be dealt with as if the surviving applicants were the sole applicants;
  - (b) in any other case, a first home owner grant, if payable on the application, is to be paid to the estate of the deceased.
- (3) If a deceased applicant for a first home owner grant had not, by the date of his or her death, occupied the home to which the application relates as the applicant's principal place of residence for a continuous period of at least 6 months (or any lesser period approved by the Commissioner under section 12(1A))

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

Part 2 – First home owner grant

s. 23

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commencing within the 12-month period immediately after completion of the eligible transaction or a longer period allowed by the Commissioner, but the Commissioner is satisfied that the applicant intended to do so, the residence requirement is satisfied.

**23. Power to correct decision**

- (1) If the Commissioner decides an application, and is later satisfied (independently of an objection under this Act) that –
  - (a) the decision is incorrect; or
  - (b) the decision was made on the basis of, or having regard to, false or misleading information provided by the applicant or a third party; or
  - (c) the applicant failed to provide information that was relevant to the making of the decision on the application, which they ought reasonably to have provided; or
  - (d) the applicant failed to comply with any condition(s) upon which the grant was made, or failed to comply with or meet any relevant eligibility criteria –

the Commissioner may vary or reverse the decision.

- (2) A decision cannot be varied or reversed under this section more than 5 years after it was made.

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

s. 24

Part 2 – First home owner grant

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**24. Notification of decision**

- (1) When the Commissioner decides an application (or decides to vary or reverse an earlier decision on an application) the Commissioner must give the applicant notice of the decision.
- (2) If the decision is to authorise the payment of a first home owner grant without conditions, the payment of the grant is sufficient notice of the decision.
- (3) If the decision is to refuse an application, or to vary or reverse an earlier decision on an application, the Commissioner must state in the notice the reasons for the decision.

***Division 6 – Objections and appeals***

**25. Objections**

- (1) An applicant who is dissatisfied with the Commissioner's decision –
  - (a) on the application; or
  - (b) to vary or reverse a decision in accordance with section 23; or
  - (c) to impose a penalty under section 38 –may lodge a written notice of objection with the Commissioner.
- (2) The grounds of objection must be stated fully and in detail in the notice of objection.

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

Part 2 – First home owner grant

s. 26

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- (3) The objection must be lodged within 60 days after the date of the notice of the decision.
- (4) If the Commissioner is satisfied that an objector has a reasonable excuse for failing to lodge an objection within the 60-day period, the Commissioner may extend the time for lodging the objection.

**26. Powers of Commissioner on objection**

- (1) After considering an objection, the Commissioner may confirm, vary or reverse the decision subject to the objection.
- (2) The Commissioner must give the objector written notice of the decision on the objection setting out the reasons for the decision.
- (3) The Commissioner must ensure that any delegate who considers and decides on an objection –
  - (a) was not involved in making the decision to which the objection relates; or
  - (b) is not, or was not at the relevant time, a subordinate of a person who was involved in making the decision to which the objection relates.
- (4) In this section –

*delegate* means a person to whom the Commissioner has delegated powers under subsection (1).

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

s. 27

Part 2 – First home owner grant

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**27. Appeal**

- (1) An objector who is dissatisfied with the Commissioner's decision on the objection may apply to the Magistrates Court (Administrative Appeals Division) for a review of the decision.
- (2) An application for review must be lodged within 60 days after the notice of the decision on the objection is given.

**28. Limitation on review of decisions**

A court or administrative review body, including the Magistrates Court (Administrative Appeals Division), does not have jurisdiction or power to consider any question concerning a decision of the Commissioner except as provided in this Division.

**29. Objection or appeal not to stay proceedings based on the relevant decision**

- (1) Although a decision is subject to an objection or review, the Commissioner may act on the basis that the decision is correct until the objection or review is decided.
- (2) When an objection or review is decided, the Commissioner must take any necessary action to give effect to that decision.

**PART 3 – ADMINISTRATION**

*Division 1 – Administration generally*

**30. Administration**

The Commissioner is responsible to the Minister for the administration of the first home owner grant scheme.

**31. Delegation**

- (1) The Commissioner may delegate functions related to the administration of the first home owner grant scheme.
- (2) Without limiting subsection (1), the Commissioner may enter into an agreement (an “administration agreement”) with a financial institution or other person under which –
  - (a) the Commissioner delegates functions related to the administration of the first home owner grant scheme; and
  - (b) the financial institution or other person is required to carry out the delegated functions in accordance with specified conditions.
- (3) The conditions of an administration agreement may include conditions prescribed by the regulations.
- (4) If an administration agreement includes prescribed conditions, a financial institution or

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

s. 31A

Part 3 – Administration

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other person that contravenes a prescribed condition is guilty of an offence.

Penalty: Fine not exceeding 500 penalty units.

- (5) The Commissioner may, at any time, at the Commissioner's discretion, revoke an administration agreement or any other delegation under this section.

**31A. Authorised officers**

The Commissioner may appoint persons as authorised officers for the purposes of this Act.

*Division 2 – Investigations*

**32. Authorised investigations**

An authorised investigation is an investigation to determine –

- (a) whether an application under this Act or a corresponding law for a first home owner grant has been properly made; or
- (b) whether an objection to a decision made under this Act or a corresponding law should be upheld; or
- (c) whether an applicant to whom, or for whose benefit, a first home owner grant has been paid under this Act or a corresponding law was eligible for the grant; or



*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

Part 3 – Administration

s. 33

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- (d) whether a condition on which a first home owner grant has been paid under this Act or a corresponding law has been complied with; or
- (e) any other matter reasonably related to the administration or enforcement of this Act or a corresponding law.

**33. Cross-border investigation**

- (1) The Commissioner may, at the request of an authority responsible for administering a corresponding law, carry out an authorised investigation for the purposes of the corresponding law.
- (2) The Commissioner may delegate powers of investigation under this Division to the authority responsible for the administration of a corresponding law, or a person nominated by that authority.

**34. Power of investigation**

- (1) For the purposes of an authorised investigation, the Commissioner may, by written notice, require a person –
  - (a) to give the Commissioner written information that is relevant to the investigation and is specified in the notice; or
  - (b) to attend at a specified time and place before the Commissioner or the

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

s. 35

Part 3 – Administration

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Commissioner's nominee to answer questions relevant to the investigation; or

(c) to produce a document to the Commissioner that is relevant to the investigation at a specified time and place.

(2) The Commissioner may require that information given, or to be given, under this section be verified on oath or by statutory declaration.

(3) A person who, without reasonable excuse, refuses or fails to comply with a requirement of the Commissioner under this section is guilty of an offence.

Penalty: Fine not exceeding 100 penalty units.

(4) A person who, having attended before the Commissioner or the Commissioner's nominee in response to a notice under subsection (1)(b), refuses or fails, without reasonable excuse, to answer a question relevant to the investigation is guilty of an offence.

Penalty: Fine not exceeding 100 penalty units.

**35. Powers of entry and inspection**

(1) An authorised officer may, for the purposes of an authorised investigation, exercise any of the following powers:

(a) inspect premises;

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

Part 3 – Administration

s. 35

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- (b) require a person to produce a document relevant to the investigation for inspection and (if necessary) to operate a computer or other device in which information is stored to produce a document in understandable form;
  - (c) retain a document for inspection, to make a copy of it or to take extracts from it;
  - (d) require a person to answer questions relevant to the investigation;
  - (e) require a person to give the authorised officer other assistance that may be reasonable in the circumstances to carry out the authorised investigation.
- (2) An authorised officer may enter premises for the purpose of carrying out an authorised investigation –
- (a) with the consent of the occupier; or
  - (b) on the authority of a warrant issued under subsection (3).
- (3) A magistrate may issue a warrant authorising an authorised officer to enter premises (using force that may be reasonably necessary in the circumstances) if satisfied that the warrant is reasonably necessary for the administration or enforcement of this Act.
- (4) An authorised officer may be accompanied by any assistants the authorised officer reasonably requires to carry out an authorised investigation.

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

s. 36

Part 3 – Administration

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- (5) A person must not –
- (a) hinder or obstruct an authorised officer who is carrying out an authorised investigation or a person assisting the authorised officer; or
  - (b) use abusive, threatening or insulting language to an authorised officer who is carrying out an authorised investigation or a person assisting an authorised officer; or
  - (c) refuse or fail, without reasonable excuse, to comply with a requirement made by an authorised officer in the exercise of powers conferred by this section; or
  - (d) answer a question put by an authorised officer under this section knowing that the answer is false or misleading.

Penalty: Fine not exceeding 100 penalty units.

**36. Self-incrimination**

- (1) If a person is required to answer a question or to produce a document in the course of an authorised investigation, it is not an excuse for non-compliance that the answer to the question or the contents of the document might tend to incriminate the person or to make the person liable to a penalty.
- (2) However, if the person answers the question or produces the document after objecting to the

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

Part 3 – Administration

s. 36A

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requirement to do so on grounds of self-incrimination, evidence of the answer to the question or the production or contents of the document is not admissible in proceedings for an offence or for the imposition of a penalty other than proceedings under this Act.

**36A. Access to records**

(1) In this section –

*record* means –

- (a) any document; or
  - (b) any other information kept in any form or device.
- (2) For the purposes of an authorised investigation, an authorised officer may inspect and take copies of a public record kept under an Act without payment of any fee required by that Act.

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

s. 37

Part 4 – Miscellaneous

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**PART 4 – MISCELLANEOUS**

**37. False or misleading statements**

- (1) A person must not, in giving any information under this Act, dishonestly –
- (a) make a statement that is false or misleading; or
  - (b) omit any matter from a statement if, without that matter, the statement is false or misleading; or
  - (c) provide a document that is false or misleading without informing the person to whom the document is provided of that fact.

Penalty: Fine not exceeding 150 penalty units.

- (2) A person must not, in giving any information under this Act, intentionally or negligently –
- (a) make a statement that is false or misleading; or
  - (b) omit any matter from a statement if, without that matter, the statement is false or misleading; or
  - (c) provide a document that is false or misleading without informing the person to whom the document is provided of that fact.

Penalty: Fine not exceeding 100 penalty units.

**38. Power to require repayment and impose penalty**

- (1) The Commissioner may, by written notice, require an applicant (or former applicant) for a first home owner grant to repay an amount paid on the application if –
  - (a) the amount was paid in error; or
  - (b) the Commissioner varies or reverses the decision under which the amount was paid in accordance with section 23.
- (2) If –
  - (a) an applicant (or former applicant) contravenes section 37(1) or (2); and
  - (b) as a result of that contravention a first home owner grant, or part of such a grant, is paid under Division 5 of Part 2 or applied under section 19(3) –

the Commissioner, by the notice specified in subsection (1) or another notice, may impose a penalty not exceeding the amount the applicant (or former applicant) is required to repay under subsection (1).
- (3) If an applicant (or former applicant) for a first home owner grant fails to make a repayment required under this section or the conditions of the grant, the Commissioner may, by written notice, impose a penalty not exceeding the amount the applicant (or former applicant) is required to repay.

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

s. 39

Part 4 – Miscellaneous

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- (4) If an amount is paid in error on an application for a first home owner grant to a third party, the Commissioner may, by written notice, require the third party to repay the amount to the Commissioner.

**39. Power to recover amount paid in error, &c.**

- (1) This section applies to the following amounts:
- (a) an amount that an applicant (or former applicant) for a first home owner grant is required to repay under the conditions of the grant or by requirement of the Commissioner under this Act;
  - (b) the amount of a penalty imposed on an applicant (or former applicant) for a first home owner grant;
  - (c) an amount a third party is required to repay by requirement of the Commissioner under this Act.
- (2) The liability arising from a requirement to pay (or repay) an amount to which this section applies is, if the requirement attaches to 2 or more persons, joint and several.
- (3) If an applicant who is liable to pay an amount to which this section applies has an interest in the home for which the first home owner grant was sought, the liability is a first charge on the applicant's interest in that home.



*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

Part 4 – Miscellaneous

s. 39

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- (4) The Commissioner may recover as a debt due to the Crown –
- (a) an amount to which this section applies; and
  - (b) any reasonable costs and expenses incurred by the Commissioner in connection with the recovery, or attempted recovery, by any lawful means of the amount referred to in paragraph (a).
- (4A) If a person fails to pay an amount to which this section applies, or any part of that amount, within the time specified in the notice under section 38 which requires that payment, the Commissioner, by written notice to the person, may require the person to pay interest on the unpaid amount.
- (4B) If the Commissioner requires a person to pay interest on an amount under subsection (4A), the person is liable to pay interest on the amount, or part of the amount, that is unpaid –
- (a) on a daily basis from the end of the last day for payment specified in the notice under section 38 until the day it is paid; and
  - (b) at the interest rate specified in section 35 of the *Taxation Administration Act 1997*.
- (4C) Despite subsection (4B), a person is not liable to pay interest on an amount as required by that subsection if the amount of interest that would

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

s. 39A

Part 4 – Miscellaneous

---

be payable under subsection (4B) would be less than \$20.

- (5) The Commissioner may enter into an arrangement (which may include provision for the payment of interest) for payment of a liability outstanding under this section by instalments.
- (6) The Commissioner may write off the whole or part of a liability to pay an amount to which this section applies or any interest relating to such an amount if satisfied that action, or further action, to recover the amount outstanding or interest is impracticable or unwarranted.

**39A. Recovery of grants and costs from third parties**

- (1) The Commissioner, by notice in writing, may require any of the following persons instead of the applicant (or former applicant) for a first home owner grant to pay any amount due under section 39:
  - (a) a person from whom any money is due or accruing or may become due to the applicant;
  - (b) a person who holds or may subsequently hold money for or on account of the applicant;
  - (c) a person who holds or may subsequently hold money on account of some other person for payment to the applicant;

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

Part 4 – Miscellaneous

s. 39A

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- (d) a person who has authority from some other person to pay money to the applicant.
- (2) A copy of the notice is to be served on the applicant.
- (3) The amount of money required to be paid by a person under subsection (1) is –
  - (a) if the amount of the money held or due or authorised to be paid does not exceed the amount payable by the applicant to the Commissioner, all the money; or
  - (b) if the amount of the money exceeds the amount payable, sufficient money to pay the amount payable.
- (4) A person required to pay money under this section must pay the money to the Commissioner –
  - (a) on receipt of the notice; or
  - (b) when the money is held by the person –  
whichever is the later, or within any period specified by the Commissioner.
- (5) A person subject to a requirement of the Commissioner under this section must comply with the requirement.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 100 penalty units; or

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

s. 40

Part 4 – Miscellaneous

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- (b) in any other case, a fine not exceeding 20 penalty units.
- (6) If the whole or a part of an amount is paid by another person –
  - (a) the Commissioner is to promptly notify the person on whom the notice was served of the payment; and
  - (b) the notice is taken to be amended accordingly.

**40. Protection of confidential information**

- (1) In this section,
  - protected information* means information obtained in the course of work related to the administration of this Act about an application for a first home owner grant.
- (2) For the purpose of this section, a person is subject to a duty of confidentiality if –
  - (a) the person is, or has been, engaged in work related to the administration of this Act; or
  - (b) the person has obtained access to protected information (directly or indirectly) from a person who is, or has been, engaged in work related to the administration of this Act.
- (3) A person who is subject to a duty of confidentiality must not disclose protected

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

Part 4 – Miscellaneous

s. 41

---

information except as permitted by subsection (4).

Penalty: Fine not exceeding 100 penalty units.

- (4) Protected information may be disclosed –
- (a) at the request or with the consent of the person to whom the information relates or a person acting on that person's behalf; or
  - (b) in connection with the administration or enforcement of –
    - (i) this Act or a corresponding law; or
    - (ii) a taxation law of the Commonwealth or a State; or
  - (c) for the purposes of legal proceedings; or
  - (d) as authorised under the regulations.

**41. Evidence**

- (1) A certificate signed by the Commissioner stating that a first home owner grant was paid to a person named in the certificate on a specified date is admissible in legal proceedings as evidence of the payment.
- (2) A copy of a notice issued by the Commissioner imposing a penalty under this Act is admissible in legal proceedings as evidence of the imposition of the penalty.

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

s. 42

Part 4 – Miscellaneous

---

- (3) A copy of a notice issued by the Commissioner requiring the payment or repayment of a specified amount is admissible in legal proceedings as evidence –
- (a) that the requirement was made; and
  - (b) that the amount specified in the notice was outstanding at the date of the notice.

**42. Time for commencing prosecution**

Proceedings for an offence against this Act may only be commenced within 3 years after the date on which the offence is alleged to have been committed.

**43. Protection of officers, &c.**

- (1) This section applies to –
- (a) the Commissioner; and
  - (b) an authorised officer; and
  - (c) a delegate of the Commissioner who is a State Service officer or State Service employee.
- (2) No personal liability attaches to a person to whom this section applies for an honest act or omission in the performance, or purported performance, of functions under this Act.

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

Part 4 – Miscellaneous

s. 44

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- (3) A liability that would, but for subsection (2), lie against a person to whom this section applies, lies instead against the Crown.

**44. Regulations**

- (1) The Governor may make regulations for the purposes of this Act.
- (2) Regulations made under this Act may –
- (a) authorise any matter to be determined, applied or regulated by the Commissioner of State Revenue; and
  - (b) be made subject to conditions or so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the regulations.
- (3) Regulations made under this Act may –
- (a) provide that a contravention of, or failure to comply with, any of the regulations is an offence; and
  - (b) in respect of such an offence, provide for the imposition of a fine not exceeding 25 penalty units.

**45. Administration of Act**

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

s. 45

Part 4 – Miscellaneous

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- (a) the administration of this Act is assigned to the Treasurer; and
- (b) the department responsible to the Treasurer in relation to the administration of this Act is the Department of Treasury and Finance.



*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

Part 4 – Miscellaneous

s. 45

**NOTES**

The foregoing text of the *First Home Owner Grant Act 2000* comprises those instruments as indicated in the following table. Any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 1 July 2023 are not specifically referred to in the following table of amendments.

Act	Number and year	Date of commencement
<i>First Home Owner Grant Act 2000</i>	No. 19 of 2000	1.7.2000
<i>First Home Owner Grant Amendment Act 2000</i>	No. 94 of 2000	1.7.2000
<i>State Service (Consequential and Miscellaneous Amendments) Act 2000</i>	No. 86 of 2000	1.5.2001
<i>Magistrates Court (Administrative Appeals Division) (Consequential Amendments) Act 2001</i>	No. 73 of 2001	1.7.2002
<i>First Home Owner Grant Amendment Act 2003</i>	No. 79 of 2003	15.10.2003 (ss. 1, 2, 3, 5 and 10)
<i>Relationships (Consequential Amendments) Act 2003</i>	No. 45 of 2003	1.1.2004
<i>First Home Owner Grant Amendment Act 2003</i>	No. 79 of 2003	1.1.2004 (remaining provisions)
<i>Taxation and Related Legislation (Miscellaneous Amendments) Act 2004</i>	No. 36 of 2004	1.12.2004
<i>Taxation and Related Legislation (Miscellaneous Amendments) Act 2008</i>	No. 8 of 2008	2.5.2008
<i>Taxation and Related Legislation (Miscellaneous Amendments) Act (No. 2) 2008</i>	No. 46 of 2008	18.11.2008
<i>Taxation and Related Legislation (Miscellaneous Amendments) Act 2010</i>	No. 6 of 2010	9.7.2010
<i>Taxation and Related Legislation (Miscellaneous Amendments) Act 2011</i>	No. 14 of 2011	28.6.2011
<i>Taxation and Related Legislation</i>	No. 47 of 2011	7.12.2011

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

s. 45

Part 4 – Miscellaneous

Act	Number and year	Date of commencement
<i>(Miscellaneous Amendments) Act (No. 2) 2011</i>		
<i>Jobs Package (Miscellaneous Amendments) Act 2013</i>	No. 3 of 2013	1.1.2013
<i>First Home Owner Grant Amendment Act 2014</i>	No. 5 of 2014	1.1.2013 (s. 5)
<i>Taxation Relief Act 2013</i>	No. 22 of 2013	1.7.2013
<i>Taxation and Related Legislation (Miscellaneous Amendments) Act 2013</i>	No. 41 of 2013	21.10.2013
<i>First Home Owner Grant Amendment Act 2014</i>	No. 5 of 2014	7.11.2013 (The Act except s. 5)
<i>Legislation Publication Act 1996</i>	No. 17 of 1996	7.1.2014 (s. 18A - minor correction)
<i>First Home Owner Grant Amendment Act (No. 2) 2014</i>	No. 20 of 2014	9.12.2014
<i>First Home Owner Grant Amendment Act 2015</i>	No. 23 of 2015	1.7.2015
<i>Taxation and Related Legislation (Miscellaneous Amendments) Act 2016</i>	No. 43 of 2016	31.10.2016
<i>Taxation and Grants Legislation (Housing Construction Amendments) Act 2017</i>	No. 24 of 2017	1.7.2017
<i>Taxation Related Legislation (Housing Availability and Payroll Relief) Act 2018</i>	No. 5 of 2018	1.7.2018
<i>First Home Owner Grant Amendment Act 2019</i>	No. 16 of 2019	28.6.2019
<i>Taxation and Related Legislation (Miscellaneous Amendments) Act 2020</i>	No. 9 of 2020	1.4.2020
<i>HomeBuilder Grants Act 2020</i>	No. 15 of 2020	4.6.2020
<i>Treasury Miscellaneous (Cost of Living and Affordable Housing Support) Act 2021</i>	No. 8 of 2021	1.4.2021
<i>Treasury Miscellaneous (Affordable Housing and Youth Employment Support) Act 2022</i>	No. 8 of 2022	1.7.2022
<i>Taxation and Miscellaneous Amendments Act 2023</i>	No. 13 of 2023	1.7.2023

**TABLE OF AMENDMENTS**

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

Part 4 – Miscellaneous

s. 45

Provision affected	How affected
Section 3	Amended by No. 94 of 2000, s. 4, No. 79 of 2003, s. 4, No. 46 of 2008, s. 21, No. 6 of 2010, s. 13 and No. 22 of 2013, s. 6
Section 6	Amended by No. 45 of 2003, Sched. 1
Section 7	Amended by No. 15 of 2020, Sched. 1
Section 8	Substituted by No. 79 of 2003, s. 5
Section 10	Amended by No. 79 of 2003, s. 6
Section 11	Amended by No. 6 of 2010, s. 14
Section 12	Amended by No. 79 of 2003, s. 7, No. 14 of 2011, s. 13 and No. 41 of 2013, s. 32
Section 13	Amended by No. 8 of 2008, s. 21, No. 22 of 2013, s. 7 and No. 43 of 2016, s. 11
Section 18	Amended by No. 14 of 2011, s. 14 Substituted by No. 3 of 2013, s. 9 Amended by No. 5 of 2014, s. 4, No. 20 of 2014, s. 4, No. 43 of 2016, s. 12, No. 24 of 2017, s. 6, No. 5 of 2018, s. 15, No. 16 of 2019, s. 4, No. 9 of 2020, s. 5, No. 8 of 2021, s. 11, No. 8 of 2022, s. 9 and No. 13 of 2023, s. 6
Section 18A	Amended by No. 17 of 1996 Inserted by No. 3 of 2013, s. 9 Amended by No. 22 of 2013, s. 8 and No. 5 of 2014, s. 5
Section 18B	Inserted by No. 5 of 2014, s. 6
Section 18C	Inserted by No. 20 of 2014, s. 5 Amended by No. 23 of 2015, s. 4
Section 18D	Inserted by No. 43 of 2016, s. 13
Section 18E	Inserted by No. 24 of 2017, s. 7
Section 18F	Inserted by No. 5 of 2018, s. 16
Section 18G	Inserted by No. 16 of 2019, s. 5
Section 18H	Inserted by No. 9 of 2020, s. 6 Amended by No. 8 of 2021, s. 12
Section 18I	Inserted by No. 8 of 2021, s. 13
Section 18J	Inserted by No. 8 of 2022, s. 10
Section 18K	Inserted by No. 13 of 2023, s. 7
Section 20	Amended by No. 79 of 2003, s. 8 and No. 14 of 2011, s. 15
Section 22	Amended by No. 79 of 2003, s. 9
Section 23	Substituted by No. 46 of 2008, s. 22
Section 25	Amended by No. 36 of 2004, s. 23 and No. 46 of 2008, s. 23
Section 26	Amended by No. 36 of 2004, s. 24
Section 27	Amended by No. 73 of 2001, Sched. 1
Section 28	Repealed by No. 73 of 2001, Sched. 1 Inserted by No. 47 of 2011, s. 12
Section 29	Amended by No. 73 of 2001, Sched. 1
Section 31A	Inserted by No. 46 of 2008, s. 24
Section 36A	Inserted by No. 8 of 2008, s. 22
Section 37	Substituted by No. 8 of 2008, s. 23
Section 38	Amended by No. 8 of 2008, s. 24 and No. 46 of 2008, s. 25
Section 39	Amended by No. 8 of 2008, s. 25 and No. 46 of 2008, s. 26

*First Home Owner Grant Act 2000*  
*Act No. 19 of 2000*

**s. 45**

Part 4 – Miscellaneous

---

Provision affected	How affected
Section 39A	Inserted by No. 46 of 2008, s. 27
Section 40	Amended by No. 36 of 2004, s. 25
Section 42	Amended by No. 36 of 2004, s. 26
Section 43	Amended by No. 86 of 2000, Sched. 1