

Homes Savings Grant

No. 6 of 1965

An Act to amend the *Homes Savings Grant Act 1964*.

[Assented to 21 April, 1965]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

Short title
and citation.

1.—(1.) This Act may be cited as the *Homes Savings Grant Act 1965*.

(2.) The *Homes Savings Grant Act 1964** is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Homes Savings Grant Act 1964–1965*.

Commence-
ment.

2. This Act shall be deemed to have come into operation on the twenty-eighth day of May, One thousand nine hundred and sixty-four.

Interpretation.

3. Section 4 of the Principal Act is amended—

(a) by omitting paragraphs (d) and (e) of the definition of “approved interest” in sub-section (1.) and inserting in their stead the following paragraphs:—

“(d) a lease for a term of years from the owner of an estate in fee simple if the Secretary is satisfied that the lease gives reasonable security of tenure to the lessee for a substantial period; or

“(e) a lease, licence or right of occupancy from the Crown in right of the Commonwealth or a State if the Secretary is satisfied that the lease, licence or right of occupancy gives reasonable security of tenure to the lessee, licensee or holder of the right;”;

* Act No. 51, 1964.

(b) by omitting from sub-section (1.) the definition of “the prescribed date” and inserting in its stead the following definition:—

“ ‘the prescribed date’, in relation to an eligible person, means—

(a) in the case of a person who or whose spouse, or who together with his or her spouse, has entered into a contract for the purchase of a dwelling-house situated in Australia—

(i) if the person has entered into a contract in writing—the date of making of the contract; or

(ii) in any other case—such date as the Secretary determines;

(b) in the case of a person who or whose spouse, or who together with his or her spouse, has entered into a contract for the construction by a building-contractor of a dwelling-house on land situated in Australia that is, or that the Secretary is satisfied will be, owned by the person or his or her spouse or by both the person and his or her spouse—

(i) if the person has entered into a contract in writing—the date of making of the contract or the date on which the construction of the dwelling-house commenced, whichever was the earlier; or

(ii) in any other case—such date as the Secretary determines; or

(c) in the case of a person who or whose spouse, or who together with his or her spouse, has constructed or is constructing, otherwise than through a building-contractor, a dwelling-house on land situated in Australia that is, or that the Secretary is satisfied will be, owned by

the person or his or her spouse or by both the person and his or her spouse—the date on which the construction of the dwelling-house commenced;”;

(c) by omitting from paragraph (a) of sub-section (5.) the words “during a period when he was an Australian citizen,” and the words “during that period”; and

(d) by omitting sub-section (7.) and inserting in its stead the following sub-sections:—

“ (7.) For the purposes of this Act—

(a) the construction of a dwelling-house shall be deemed to have commenced on the day on which work commenced on the laying of the foundations of the dwelling-house; and

(b) the completion of the construction of a partly constructed dwelling-house shall be deemed to have commenced on such date as the Secretary determines, having regard to all the circumstances, should be treated as the date on which that construction commenced to be completed.

“ (8.) Unless the contrary intention appears, a reference in this Act to the construction of a dwelling-house by a person (whether through a building-contractor or not) shall, if the construction of the dwelling-house was commenced by another person (whether through a building-contractor or not), be read as a reference to the completion of the construction of the dwelling-house by the first-mentioned person.”.

4. After section 4 of the Principal Act the following section is inserted:—

Trusts, &c.

“ 4A.—(1.) Where—

(a) the owner of land holds the land in trust for another person; or

(b) a person has entered into a contract for the purchase of land or a dwelling-house to be held in trust for another person,

and the Secretary is satisfied that the other person will become the owner of the land or dwelling-house, the other person shall, for the purposes of this Act other than section seventeen, be

deemed to be the owner of the land or dwelling-house or to have entered into the contract for the purchase of the land or dwelling-house, as the case may be.

“(2.) Where—

- (a) an owner of land who holds the land in trust for another person has entered into a contract for the construction by a building-contractor of a dwelling-house on the land; or
- (b) a person has, at the request of another person, entered into a contract, otherwise than as an agent of the other person, for the construction by a building-contractor of a dwelling-house on land owned by the other person,

the other person shall, for the purposes of this Act, be deemed to have entered into the contract.

“(3.) Section nineteen of this Act has effect in relation to paragraphs (a) and (b) of sub-section (1.) of this section and paragraph (a) of the last preceding sub-section as if there were omitted from sub-sections (1.) and (2.) of section nineteen the words ‘, otherwise than as a trustee,’ (wherever occurring).

“(4.) For the purposes of this Act, where—

- (a) a person holds any moneys, whether in the form of an investment or otherwise, in trust for another person; and
- (b) the moneys are not held jointly with other moneys, other than moneys held in trust for the spouse of the other person,

the moneys shall be deemed to have been saved by the other person and to be held by the other person in the same form as that in which they are held by the trustee, and any such moneys that have been paid or expended for any purpose by the trustee shall be deemed to have been paid or expended for that purpose by the other person.”.

5. Section 7 of the Principal Act is amended by omitting sub-section (1.) and inserting in its stead the following sub-sections:—

**Regional
Directors.**

“(1.) For the purposes of this Act, the Secretary shall—

- (a) in respect of each State—appoint an officer of the Department of Housing to be the Regional Director for that State; and
- (b) in respect of the Australian Capital Territory—appoint an officer of that Department to be the Regional Director for that Territory.

“(1A.) An appointment under this section may be an appointment of—

- (a) a specified officer of the Department of Housing only; or
- (b) every officer of the Department of Housing from time to time holding, or performing the duties of, a specified office in the Department of Housing.”.

Eligible
persons.

6. Section 14 of the Principal Act is amended—

- (a) by omitting paragraphs (c) and (d) and inserting in their stead the following paragraphs:—

“(c) the person—

- (i) was an Australian citizen throughout the period of three years immediately preceding the prescribed date; or
- (ii) resided in Australia throughout that period;

“(d) the Secretary is satisfied that the person held acceptable savings throughout the period of three years immediately preceding the prescribed date;”;

- (b) by omitting sub-paragraphs (i) and (ii) of paragraph (f) and inserting in their stead the following sub-paragraphs:—

“(i) entered into a contract for the purchase of a dwelling-house situated in Australia, or for the construction by a building-contractor, on land situated in Australia that is, or that the Secretary is satisfied will be, owned by either or both of those persons, of a dwelling-house the construction of which commenced on or after that date; or

“(ii) commenced to construct, otherwise than through a building-contractor, on land situated in Australia that is, or that the Secretary is satisfied will be, owned by either or both of those persons, a dwelling-house that has since that date been completed or on which substantial building progress has been made;”.

7. Section 16 of the Principal Act is amended by omitting sub-sections (3.) and (4.) and inserting in their stead the following sub-section:—

Acceptable savings where prescribed date is later than 31st December, 1964.

“(3.) For the purposes of this Act, the acceptable savings of a person to whom this section applies as at a time after the thirty-first day of December, One thousand nine hundred and sixty-four, are, subject to this Act, the moneys that were saved in Australia before that time by the person and—

(a) if that time was a time on or before the thirty-first day of December, One thousand nine hundred and sixty-seven—

(i) were maintained at that time and at the thirty-first day of December, One thousand nine hundred and sixty-four, by the person, or by the person jointly with his or her spouse, on deposit with a branch in Australia of a savings bank or of a trading bank, not being a deposit of a kind to which sub-paragraph (i) of the next succeeding paragraph applies; or

(ii) were maintained at that time and at the thirty-first day of December, One thousand nine hundred and sixty-four, by the person, or by the person jointly with his or her spouse, on deposit with a friendly society or credit union; or

(b) if that time was a time on or before, or was a time after, the thirty-first day of December, One thousand nine hundred and sixty-seven—

(i) were maintained at that time by the person, or by the person jointly with his or her spouse, on deposit (other than a deposit in an account that may be drawn on by cheque) with a branch in Australia of a savings bank or on fixed deposit with a branch in Australia of a trading bank, being a deposit that was described in the books or records of the savings bank or the trading bank, as the case may be, as a Home Savings Account;

(ii) were maintained at that time by the person, or by the person jointly with his or her spouse, on deposit with a building society; or

(iii) were paid before that time by the person or his or her spouse, or by both of those persons, to a building society as subscriptions in respect of shares in the capital of the society and were not repaid before that time.”.

8. Section 17 of the Principal Act is repealed and the following sections are inserted in its stead:—

Acceptable
savings to
include certain
moneys
expended in
purchase of
certain
residential
land.

“17.—(1.) For the purpose of determining the acceptable savings of an eligible person as at any time (in this sub-section referred to as ‘the relevant time’), where moneys saved in Australia by the eligible person were expended before the relevant time in payment of the whole or a part of the purchase price in respect of the purchase by the eligible person or his or her spouse, or by both of those persons, of land that could, at the time when the moneys were expended, lawfully be used for residential purposes and is not land on which there has been, is being or is to be constructed a dwelling-house in respect of which an application for a grant under this Act has been made by the eligible person and—

- (a) the eligible person or his or her spouse has, or both of those persons have, before the first day of July, One thousand nine hundred and sixty-five, or the expiration of six months after the prescribed date, whichever is the later, become entitled to receive a refund of the whole or a part of the moneys expended but had not, before the relevant time, received the whole of that refund; or
- (b) the eligible person or his or her spouse has, or both of those persons have, before the first day of July, One thousand nine hundred and sixty-five, or the expiration of six months after the prescribed date, whichever is the later, entered into a contract for the sale of the land but had not, before the relevant time, received the whole of the moneys that were payable to either or both of them in respect of the sale,

the Secretary may, having regard to the area and the number of separate parcels of the land and the amount (if any) received by the eligible person before the relevant time as a refund of the moneys expended or in respect of the sale of the land, treat the acceptable savings of the eligible person as at that time as having included the whole, or such part as the Secretary thinks reasonable, of the moneys expended.

“(2.) A reference in the last preceding sub-section to the purchase or sale by a person of land shall be read as a reference to the purchase or sale, as the case may be, of any estate or interest in the land by the person, otherwise than as a trustee, or by another person as trustee for the first-mentioned person.

Acceptable
savings to
include certain
moneys
expended in
connexion
with purchase
or construction
of dwelling-
house.

“17A. For the purpose of determining the acceptable savings of an eligible person as at any time, where any moneys that were saved in Australia by the person were expended before

that time in connexion with the purchase or construction of a dwelling-house in respect of which an application for a grant under this Act has been made by the person, the Secretary—

- (a) shall treat the acceptable savings of the person as at that time as including so much of those moneys as were expended—
 - (i) in the payment of the whole or a part of the purchase price of the land on which the dwelling-house has been constructed or commenced to be constructed;
 - (ii) in the payment of a deposit in respect of the purchase or construction of the dwelling-house; or
 - (iii) in the purchase of materials to be used in the construction of the dwelling-house; and
- (b) may treat the acceptable savings of the person as at that time as including the whole or any part of the remainder of those moneys.

“ 17B. For the purposes of this Act, the acceptable savings of a person as at a time when the person was serving outside Australia as a member of the Defence Force or was the spouse or a child under the age of twenty-one years of a person who was so serving include any moneys that were saved by the person before that time and were held at that time outside Australia by the person, or by the person jointly with his or her spouse, in a form approved by the Secretary.

Acceptable] 3
savings of
members of the
Defence Force
serving outside
Australia and
their spouses
and children.

“ 17C. Where the Secretary is satisfied that—

- (a) a person has done an act or thing for the purpose of effecting the payment or expenditure of moneys by the person; and
- (b) after the doing of that act or thing, the moneys have been so paid or expended,

Power of
Secretary
to treat
moneys as
paid or
expended.

the Secretary may, for the purposes of this Act, treat the moneys as having been paid or expended at the time of the doing of that act or thing.”.

9. Section 19 of the Principal Act is amended—

- (a) by inserting in sub-section (1.), after the word “ Act ”, the words “ other than section seventeen ”; and
- (b) by adding at the end thereof the following sub-section:—
 - “ (3.) For the purposes of this section—
 - (a) the purchase of an interest in land, in an undivided share in land or in a flat or home unit, being an interest that, together with an

Purchase or
ownership of
land and
dwelling-houses.

interest already owned by the purchaser or his or her spouse, or by both of those persons, constitutes an approved interest in the land, in an undivided share in the land or in the flat or home unit, as the case may be, shall be deemed to be the purchase of such an approved interest; and

- (b) the purchase of an interest in shares in the capital of a company, being shares that entitle the holder to a right of occupancy in respect of a flat or home unit, shall, if all other interests in those shares are already owned by the purchaser or his or her spouse, or by both of those persons, be deemed to be the purchase of those shares.”.

Grants.

10. Section 20 of the Principal Act is amended—

- (a) by inserting after sub-section (1.) the following sub-section:—

“(1A.) A grant under this Act shall not be made to an eligible person unless he became an eligible person before the expiration of twelve months after the prescribed date or before such later time as the Secretary, in special circumstances, allows.”;

- (b) by omitting paragraphs (a), (b), (c) and (d) of sub-section (2.) and inserting in their stead the following paragraphs:—

“(a) unless the Secretary is satisfied, before the expiration of twelve months after the prescribed date or before such later time as the Secretary, in special circumstances, allows, that the eligible person or his or her spouse has or will have, or both the eligible person and his or her spouse have or will have, as the case may be, adequate financial resources (including resources obtained or to be obtained by borrowing) to perform the contract entered into by either or both of them for the purchase or construction of the dwelling-house or to complete the construction of the dwelling-house, as the case may be;

“(b) unless the amount that the Secretary is satisfied is the value of the dwelling-house, or will be the value of the dwelling-house when it is erected, does not exceed Seven thousand pounds;

“(c) if the eligible person or his or her spouse has, or the eligible person and his or her spouse have, during their marriage—

- (i) owned another dwelling-house; or
- (ii) entered into a contract, other than a contract that was discharged (otherwise than by performance of the contract) before the expiration of three months after it was entered into, for the purchase of another dwelling-house, being a contract that provided for the payment of the purchase price or part of the purchase price by instalments; or”; and

(c) by omitting sub-sections (3.) and (4.) and inserting in their stead the following sub-sections:—

“(3.) Paragraph (a) of the last preceding sub-section does not apply in relation to an eligible person where the person or his or her spouse, or the person together with his or her spouse, has entered into a contract for the purchase of the dwelling-house, being a contract that provides for the payment of the purchase price or part of the purchase price by instalments, and the Secretary is satisfied that it would be unreasonable for that paragraph to apply having regard to all the circumstances.

“(4.) For the purposes of paragraph (b) of sub-section (2.) of this section, the value of a dwelling-house is the value—

(a) in the case of a dwelling-house not being a dwelling-house of a kind commonly known as a flat or home unit—of the approved interest owned or to be owned by the eligible person or his or her spouse, or by both of those persons, in the land on which the dwelling-house is, or is being, erected having regard to the dwelling-house and any other improvements that are, or are being, made to that land; and

(b) in the case of a dwelling-house being a dwelling-house of a kind commonly known as a flat or home unit—

- (i) of the approved interest owned or to be owned by the eligible person or his or her spouse, or by both of those persons, in the flat or home unit;

(ii) of the shares owned or to be owned by the eligible person and his or her spouse, or by both of those persons, in the capital of a company that is the beneficial owner of an approved interest in the land on which the building containing the flat or home unit is, or is being, erected, being shares that entitle the holder to a right of occupancy (whether under a lease or otherwise) in respect of the flat or home unit; or

(iii) of the undivided share owned or to be owned by the eligible person or his or her spouse, or by both of those persons, in an approved interest in the land on which the building containing the flat or home unit is, or is being, erected having regard to the building and any other improvements that are, or are being, made to that land,

as the case may be.

“(4A.) In satisfying himself for the purposes of paragraph (b) of sub-section (2.) of this section as to the value of a dwelling-house, the Secretary may have regard to such matters as he thinks fit, including—

(a) in the case of a dwelling-house not being a dwelling-house of a kind commonly known as a flat or home unit—the cost to the eligible person and his or her spouse of—

(i) the approved interest in the land on which the dwelling-house is, or is being, erected; and

(ii) the dwelling-house and other improvements that are, or are being, made to that land; and

(b) in the case of a dwelling-house being a dwelling-house of a kind commonly known as a flat or home unit—the cost to the eligible person and his or her spouse of—

(i) the approved interest in the flat or home unit;

- (ii) the shares in the capital of a company that entitle the holder to a right of occupancy in respect of the flat or home unit; or
 - (iii) the undivided share in an approved interest in the land on which the building containing the flat or home unit is, or is being, erected,
- as the case may be.”.

11. Section 21 of the Principal Act is amended by omitting paragraph (c) of sub-section (1.) and inserting in its stead the following paragraph:—

Applications
for grants.

“(c) shall be furnished to the Regional Director for the State or Territory in which the dwelling-house is, or is to be, situated—

- (i) where the prescribed date is a date not later than the thirtieth day of June, One thousand nine hundred and sixty-four—on or before the thirtieth day of June, One thousand nine hundred and sixty-five;
- (ii) where the prescribed date is a date later than the thirtieth day of June, One thousand nine hundred and sixty-four, but not later than the thirty-first day of March, One thousand nine hundred and sixty-five—on or before the thirtieth day of June, One thousand nine hundred and sixty-five, or such later date (not being later than twelve months after the prescribed date) as the Secretary in special circumstances allows; or
- (iii) in any other case—before the expiration of three months after the prescribed date or before such later time (not being a time more than nine months later) as the Secretary in special circumstances allows.”.

12. Section 24 of the Principal Act is amended—

Repayment of
grants.

(a) by omitting sub-section (1.) and inserting in its stead the following sub-sections:—

“(1.) This section applies where a grant under this Act has been paid to an eligible person in respect of a dwelling-house the purchase of which had not been completed, or the construction of which had not

been completed, at the time when the application for the grant was made.

“(1A.) Where—

(a) in the case of a dwelling-house the purchase of which had not been completed at the time when the application for the grant was made—

(i) the purchase of the dwelling-house is not completed within three months after the date specified in the application for the grant as the date on which it was expected that the purchase would be completed or, if no date was so specified, within three months after the date of payment of the grant; or

(ii) the contract for the purchase of the dwelling-house is discharged otherwise than by performance of the contract; or

(b) in the case of a dwelling-house the construction of which had not been completed at the time when the application for the grant was made—

(i) the construction of the dwelling-house is not completed within six months after the date specified in the application for the grant as the date on which it was expected that the construction would be completed or, if no date was so specified, within six months after the date of payment of the grant;

(ii) if the dwelling-house was being, or was to be, constructed by a building-contractor—the contract for the construction of the dwelling-house is discharged otherwise than by performance of the contract; or

(iii) the eligible person or his or her spouse does not become the owner, or the eligible person and his or her spouse do not become the owners, of the land on which the dwelling-house was being, or was to be, constructed before the expiration of twelve months after the prescribed date,

the eligible person and his or her spouse shall forthwith notify the Secretary in writing of that fact.

Penalty: Fifty pounds.”; and

- (b) by omitting from sub-section (2.) the words “ paragraph (a), (b) or (c) ” and inserting in their stead the words “ paragraph (a) or (b) ”.
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