

Homes Savings Grant

No. 14 of 1970

An Act to amend the *Homes Savings Grant Act 1964-1967*.

[Assented to 2 June 1970]

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

- 1.—(1.) This Act may be cited as the *Homes Savings Grant Act 1970*. Short title and citation.
 - (2.) The *Homes Savings Grant Act 1964-1967** 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 1964-1970*.
2. This Act shall come into operation on the day on which it receives the Royal Assent. Commencement.

* Act No. 51, 1964, as amended by No. 6, 1965; No. 93, 1966; and No. 50, 1967.

Title. 3. The title of the Principal Act is amended by inserting after the word “Widowed” the words “and Divorced”.

Interpretation. 4.—(1.) Section 4 of the Principal Act is amended—

(a) by omitting from sub-section (1.) the definition of “dependent child” and inserting in its stead the following definition:—

“ ‘dependent child’, in relation to a person, means a child who is in the custody, care and control of the person, being a child—

(a) who is under the age of sixteen years; or

(b) who—

(i) has attained the age of sixteen years but is under the age of twenty-one years;

(ii) is receiving full-time education at a school, college or university; and

(iii) is wholly or substantially dependent on the person,

but does not include—

(c) if the person is a widower or widow—a child who was not born of the person and his or her deceased spouse and whose custody, care and control were assumed by the person after the death of his or her spouse; and

(d) if the person is a divorced person—a child who was not born of the person and his or her former spouse unless the child had been in the custody, care and control of those persons before the dissolution of their marriage;”;

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

“ (1A.) For the purposes of the definition of ‘dependent child’ in the last preceding sub-section, a child shall be deemed to be in the custody, care and control of a person if the Secretary is satisfied that the child will be in the custody, care and control of the person after the completion of the purchase or construction of the dwelling-house in respect of which the person has applied for a grant under this Act.”;

(c) by omitting paragraph (a) of sub-section (2.) and inserting in its stead the following paragraph:—

“ (a) a reference, in relation to any time (in this paragraph referred to as ‘the relevant time’), to the spouse of an eligible person—

(i) is a reference to the person who was the spouse of the eligible person at the prescribed date or became the spouse of the eligible person at a later date, whether or not he or she was the spouse of the eligible person at the relevant time; and

- (ii) in the case of an eligible person in relation to whom the prescribed date is a date later than the twenty-sixth day of October, One thousand nine hundred and sixty-nine—includes, for the purpose of ascertaining the acceptable savings of the eligible person as at the relevant time, a reference to the person who was the spouse of the eligible person at the relevant time or became the spouse of the eligible person at a later time, notwithstanding that he or she subsequently ceased to be the spouse of the eligible person; and ”;
- (d) by omitting from paragraph (a) of sub-section (5.) the words “ or in the Territory of Nauru ”; and
- (e) by omitting paragraph (a) of sub-section (7.) and inserting in its stead the following paragraph:—
 - “ (a) the construction of a dwelling-house shall be deemed to have commenced on—
 - (i) the day on which work commenced on the laying of the foundations of the dwelling-house; or
 - (ii) if the Secretary determines that, having regard to all the circumstances, the construction of the dwelling-house should be treated as having commenced on a later day—that later day; and ”.

(2.) Notwithstanding the amendment made by paragraph (d) of the last preceding sub-section, sub-section (5.) of section 4 of the Principal Act continues to apply for the purpose of ascertaining the acceptable savings of a person as at a time on or before the thirty-first day of December, One thousand nine hundred and seventy.

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

“ 4B.—(1.) In this section—

‘ financial year ’, in relation to a credit union, means—

- (a) a period of twelve months ending on the thirtieth day of June; or
- (b) if the credit union has adopted a period of twelve months ending on any other day as its accounting period—a period of twelve months ending on that other day;

‘ housing loan ’ means a loan made, at a rate of interest not exceeding seven and one-half per centum per annum or, if another rate is prescribed, not exceeding that other rate, for or in connexion with any one or more of the following purposes:—

- (a) the purchase of land that could, at the time when the loan was made, lawfully be used for residential purposes;
- (b) the purchase of a dwelling-house;

Approved
credit unions.

- (c) the construction of a dwelling-house; and
- (d) the payment of expenses incurred, or to be incurred, in connexion with a purpose referred to in a preceding paragraph of this definition;

‘prescribed housing loan’ means a housing loan of an amount of not less than Five thousand dollars repayable over a period of not less than twelve years;

‘registered company auditor’ means a person registered as a company auditor under a law of a State or of a Territory of the Commonwealth.

“(2.) The Secretary may, on application by a credit union, by instrument under his hand, **approve** that credit union for the purposes of this Act.

“(3.) An approval under the last preceding sub-section shall be deemed to have taken effect on and from the first day of the last financial year of the credit union that ended before the date of application by the credit union for approval.

“(4.) The Secretary shall not approve a credit union unless—

(a) he is satisfied that—

- (i) not less than twenty per centum of the total amount that was lent by the credit union to its members during the last financial year of the credit union that ended before the date of the application for approval was lent by way of housing loans;
- (ii) not less than fifteen per centum of the total amount that was lent by the credit union to its members during that financial year was lent by way of prescribed housing loans; and
- (iii) the total amount that was lent by the credit union to its members during that financial year by way of housing loans was not less than Fifty thousand dollars; and

(b) the credit union has given him an undertaking in writing that—

- (i) not less than twenty per centum of the total amount that will be lent by the credit union to its members during each subsequent financial year will be lent by way of housing loans;
- (ii) not less than fifteen per centum of the total amount that will be lent by the credit union to its members during each subsequent financial year will be lent by way of prescribed housing loans; and
- (iii) the total amount that will be lent by the credit union to its members during each subsequent financial year by way of housing loans will be not less than Fifty thousand dollars.

“(5.) An application by a credit union for approval shall—

- (a) be in writing in accordance with a form made available by the Secretary;
- (b) contain an undertaking of a kind referred to in paragraph (b) of the last preceding sub-section;
- (c) specify the address of its place of business, or principal place of business, and an address for service of notices;
- (d) be signed by an officer of the credit union;
- (e) be lodged with the Secretary; and
- (f) be accompanied by a statement, together with a certificate by a registered company auditor as to the correctness of the statement, setting out such information as is necessary to enable the Secretary to satisfy himself as to the matters referred to in paragraph (a) of the last preceding sub-section.

“(6.) An approved credit union shall, within three months after the expiration of each financial year of the credit union ending on or after the date on which the credit union became an approved credit union, furnish to the Secretary a statement, together with a certificate by a registered company auditor as to the correctness of the statement, setting out—

- (a) the total amount that was lent by the credit union to its members during that financial year; and
- (b) the total amount that was lent by the credit union to its members during that financial year by way of housing loans; and
- (c) the total amount that was lent by the credit union to its members during that financial year by way of prescribed housing loans.

“(7.) If a financial year of a credit union ends on or after the date on which the credit union applied for approval and before the date on which the credit union became an approved credit union, the credit union shall, within three months after that last-mentioned date, furnish to the Secretary a statement and certificate in accordance with the last preceding sub-section in relation to that financial year.

“(8.) The Secretary may at any time, by notice under his hand sent by post to the address for service of a credit union that is an approved credit union or has applied for approval, require that credit union to furnish to him, within such time as is specified in the notice, such information as he requires in relation to loans made by the credit union during a financial year referred to in paragraph (a) of sub-section (4.), sub-section (6.) or sub-section (7.) of this section.

“(9.) If an approved credit union—

- (a) has failed to comply with the undertaking given by the credit union in connexion with its application for approval;

(b) has failed to comply with the requirements of sub-section (6.) or sub-section (7.) of this section; or

(c) has failed to comply with a requirement of the Secretary under the last preceding sub-section,

the Secretary may, by instrument under his hand, withdraw the approval given in relation to the credit union, but the withdrawal does not take effect until the expiration of six months after the date of the withdrawal.

“(10.) As soon as practicable after the Secretary grants approval to, or withdraws the approval of, a credit union, he shall—

(a) cause to be sent by post to the credit union, at its address for service, a notice of the approval or withdrawal and the date as from which the approval is, by virtue of sub-section (3.) of this section, to be deemed to have taken effect or the withdrawal is, by virtue of the last preceding sub-section, to take effect, as the case may be; and

(b) cause to be published in the *Gazette* a notice specifying the name, and the address of the place of business, of the credit union and the date as from which the approval is, by virtue of sub-section (3.) of this section, to be deemed to have taken effect or the withdrawal is, by virtue of the last preceding sub-section, to take effect, as the case may be.”.

Object.

6. Section 5 of the Principal Act is amended by inserting after the word “widowed” the words “and divorced”.

Modifications of Act in relation to eligible widowed persons.

7. Section 14B of the Principal Act is amended by omitting sub-sections (6.) and (7.) and inserting in their stead the following sub-sections:—

“(6.) In respect of a person to whom this section applies and in relation to whom the prescribed date is a date later than the twenty-sixth day of October, One thousand nine hundred and sixty-nine, paragraph (a) of the last preceding sub-section has effect as if the words ‘, 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 or was described in those books or records in any other way that indicated that the moneys were for use in connexion with the purchase or construction of a dwelling-house’ were omitted.

“(7.) Section twenty of this Act has effect in relation to a person to whom this section applies as if paragraph (c) of sub-section (2.) and sub-section (6.) were omitted.

“(8.) A grant under this Act shall not be made to a person to whom this section applies in respect of a dwelling-house if the person or his or her deceased spouse, or the person and his or her deceased spouse, had during their marriage, or the person has since he or she became a widower or widow—

(a) owned another dwelling-house; or

- (b) been a party or parties to 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,

unless the Secretary is satisfied that it would be unreasonable to regard the other dwelling-house as, or as suitable for the purpose of constituting, the family home of the person and his or her dependent child or dependent children.”.

8. After section 14B of the Principal Act the following sections are inserted:—

“ 14C. A person is an eligible person for the purposes of this Act if—

Eligible
divorced
persons.

- (a) the person is a divorced person who has a dependent child or dependent children or had such a child or children at the prescribed date;
- (b) the person had not, before the prescribed date, attained the age of thirty-six years;
- (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, throughout the period of three years immediately preceding the prescribed date, acceptable savings were held by the person or by the person jointly with his or her former spouse;
- (e) a grant under this Act has not been made to the person or to a former spouse of the person during his or her marriage to the person;
- (f) the person has, or the person and a child or children of the person or of a former spouse of the person have, on or after the twenty-seventh day of October, One thousand nine hundred and sixty-nine, and while the person was a divorced person—
- (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 the person or by the person and the child or children, 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 the person or

by the person and the child or children, a dwelling-house that has since that date been completed or on which substantial building progress has been made;

- (g) the person is not an undischarged bankrupt; and
- (h) the person is not serving a term of imprisonment for an offence against a law of the Commonwealth or of a State or Territory of the Commonwealth.

Modifications
of Act in
relation to
eligible
divorced
persons.

“ 14D.—(1.) This section applies to a person who is an eligible person by virtue of the last preceding section.

“ (2.) The Secretary may treat any land or dwelling-house that has been purchased, or is owned, by a person to whom this section applies jointly with a child or children of the person or of a former spouse of the person as having been purchased, or as being owned, as the case may be, by the person alone.

“ (3.) Section fifteen of this Act applies in relation to a person to whom this section applies as if the reference in that section to the year One thousand nine hundred and sixty-four were a reference to the year One thousand nine hundred and seventy.

“ (4.) Sub-sections (1.) and (2.) of section sixteen of this Act apply in relation to a person to whom this section applies as if each reference in those sub-sections to the year One thousand nine hundred and sixty-four were a reference to the year One thousand nine hundred and seventy.

“ (5.) Sub-section (3.) of section sixteen of this Act does not apply in relation to a person to whom this section applies but, for the purposes of this Act, the acceptable savings of such a person (being a person in relation to whom the prescribed date is a date later than the thirty-first day of December, One thousand nine hundred and seventy) as at a time (in this sub-section referred to as ‘ the relevant time ’) after the thirty-first day of December, One thousand nine hundred and seventy, are, subject to this Act, the moneys that were saved in Australia before the relevant time by the person and—

- (a) were maintained at the relevant time by the person 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;
- (b) were maintained at the relevant time by the person on deposit with a building society; or
- (c) were paid before the relevant time by the person to a building society as subscriptions in respect of shares in the capital of the society and were not repaid before that time.

“ (6.) Section twenty of this Act has effect in relation to a person to whom this section applies as if paragraph (c) of sub-section (2.) and sub-section (6.) were omitted.

“(7.) A grant under this Act shall not be made to a person to whom this section applies in respect of a dwelling-house if the person, or the person and his or her former spouse, had during their marriage, or the person has since the dissolution of his or her marriage—

- (a) owned another dwelling-house; or
- (b) been a party or parties to 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,

unless the Secretary is satisfied that it would be unreasonable to regard the other dwelling-house as, or as suitable for the purpose of constituting, the family home of the person and his or her dependent child or dependent children.”.

9. Section 16 of the Principal Act is amended by adding at the end thereof the following sub-section:—

“(4.) In respect of a person in relation to whom the prescribed date is a date later than the twenty-sixth day of October, One thousand nine hundred and sixty-nine, sub-paragraph (i) of paragraph (b) of the last preceding sub-section has effect as if the words ‘, 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 or was described in those books or records in any other way that indicated that the moneys were for use in connexion with the purchase or construction of a dwelling-house ’ were omitted.”.

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

10. After section 16 of the Principal Act the following section is inserted:—

“16A. The acceptable savings of a person as at any time include moneys saved in Australia by the person and maintained at that time by the person, or by the person jointly with his or her spouse, on deposit with a credit union if the credit union was an approved credit union for the purposes of this Act at that time or on the date that is the prescribed date in relation to the person.”.

Acceptable savings to include moneys deposited with approved credit unions.

11. Section 18 of the Principal Act is repealed and the following section inserted in its stead:—

“18.—(1.) This section applies to an eligible person who is an eligible person by virtue of section fourteen or section fourteen c of this Act.

“(2.) Where moneys were held, maintained on deposit or paid at any time (whether before or after the commencement of the *Homes Savings Grant Act 1970*) jointly by a person, being a person to whom this section applies, and his or her spouse, then, for the purposes of this Act,

Moneys held or paid jointly by certain eligible persons.

one-half of the moneys shall be deemed to have been held, maintained or paid, as the case may be, at that time by the eligible person and one-half by his or her spouse.”.

Grants.

12. Section 20 of the Principal Act is amended—

(a) by omitting from sub-paragraph (i) of paragraph (b) of sub-section (2.) the word “ or ”; and

(b) by omitting sub-paragraph (ii) of that paragraph and inserting in its stead the following sub-paragraphs:—

“ (ii) if the prescribed date in relation to the eligible person is a date that is later than the twenty-seventh day of November, One thousand nine hundred and sixty-six, but is not later than the twenty-sixth day of October, One thousand nine hundred and sixty-nine—Fifteen thousand dollars; or

(iii) in any other case—Seventeen thousand five hundred dollars;”.

Offences.

13. Section 26 of the Principal Act is amended by adding at the end thereof the following sub-section:—

“ (3.) Where a court has made an order under the last preceding sub-section, a certificate under the hand of the appropriate officer of the court specifying the amount ordered to be paid and the person by whom the amount is payable may be filed in a court having civil jurisdiction to the extent of that amount and is thereupon enforceable in all respects as a final judgment of that court.”.

14. After section 26 of the Principal Act the following section is inserted:—

“ 26A.—(1.) Where a notice of the withdrawal of the approval of a credit union for the purposes of this Act has been served on the credit union, the credit union shall—

- (a) within fourteen days after the date of service of the notice of withdrawal, give a prescribed notice to every person who was a member of the credit union at that date or, not being a member, had applied for membership on or before that date; and
- (b) give a prescribed notice to every person who applies for membership after that date and before the withdrawal takes effect.

“ (2.) A credit union that is not an approved credit union for the purposes of this Act, or an officer or member of such a credit union, shall not directly or indirectly represent or advertise that the credit union is an approved credit union for those purposes.

“ (3.) If the approval of a credit union for the purposes of this Act is withdrawn, the credit union, or an officer or member of the credit union, shall not, during the period of six months after the date of the withdrawal, directly or indirectly represent or advertise that the credit union is an approved credit union for the purposes of this Act.

Credit union to notify members and intending members of withdrawal of approval.

“(4.) For the purposes of this section, a prescribed notice is a notice stating that the approval of the credit union for the purposes of this Act has been withdrawn and specifying the date on which the withdrawal is to take effect.

Penalty: Five hundred dollars.”
