

Queensland



# **FIRST HOME OWNER GRANT AMENDMENT ACT 2003**

**Act No. 90 of 2003**



# Queensland



## FIRST HOME OWNER GRANT AMENDMENT ACT 2003

### TABLE OF PROVISIONS

Section		Page
1	Short title . . . . .	4
2	Commencement . . . . .	4
3	Act amended . . . . .	4
4	Replacement of s 11 (Criterion 1—Applicant to be a natural person) . . . . .	4
11	Criterion 1—Applicant to be a natural person and at least 18 years of age . . . . .	4
5	Amendment of s 13 (Criterion 3—Applicant or applicant’s spouse must not have received an earlier grant) . . . . .	5
6	Amendment of s 14 (Criterion 4—Applicant or applicant’s spouse must not have had relevant interest in residential property) . . . . .	5
7	Amendment of s 15 (Criterion 5—Residence requirement) . . . . .	5
8	Amendment of s 22 (Payment in anticipation of compliance with residence requirement) . . . . .	6
9	Amendment of s 24 (Death of applicant) . . . . .	6
10	Insertion of new s 69A . . . . .	7
	69A Disqualifying arrangements . . . . .	7
11	Insertion of new pt 7 . . . . .	9
	<b>PART 7—TRANSITIONAL PROVISIONS FOR FIRST HOME OWNER GRANT AMENDMENT ACT 2003</b>	
72	Continuing operation of Act for particular eligible transactions . . . . .	9
12	Amendment of schedule (Dictionary) . . . . .	10



Queensland



**First Home Owner Grant Amendment  
Act 2003**

**Act No. 90 of 2003**

---

**An Act to amend the *First Home Owner Grant Act 2000***

***[Assented to 18 November 2003]***

**The Parliament of Queensland enacts—****1 Short title**

This Act may be cited as the *First Home Owner Grant Amendment Act 2003*.

**2 Commencement**

(1) Sections 3, 4 and 10 commence on assent.

(2) The remaining provisions of this Act commence on 1 January 2004.

**3 Act amended**

This Act amends the *First Home Owner Grant Act 2000*.

**4 Replacement of s 11 (Criterion 1—Applicant to be a natural person)**

Section 11—

*omit, insert—*

**‘11 Criterion 1—Applicant to be a natural person and at least 18 years of age**

‘(1) An applicant for a first home owner grant must be—

(a) a natural person; and

(b) at least 18 years of age at the commencement date for the eligible transaction.

‘(2) The commissioner may exempt an applicant from the requirement in subsection (1)(b) if the commissioner is satisfied—

(a) the applicant will comply with criterion 5 as applying to the applicant under section 15; 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.’

**5 Amendment of s 13 (Criterion 3—Applicant or applicant’s spouse must not have received an earlier grant)**

Section 13(2)—

*omit, insert—*

‘(2) However, an applicant is not ineligible if—

- (a) the grant was later paid back; and
- (b) the basis for the repayment of the grant was a failure to satisfy section 10(1); and
- (c) any penalty amount payable under section 47 was also paid in relation to the earlier application.’.

**6 Amendment of s 14 (Criterion 4—Applicant or applicant’s spouse must not have had relevant interest in residential property)**

Section 14—

*insert—*

‘(5) However, for subsection (4), the applicant or the applicant’s spouse is taken not to have used the property as the residence of the applicant or the applicant’s spouse if—

- (a) the property was the subject of an earlier application under this Act by the applicant; and
- (b) a first home owner grant was paid under the earlier application; and
- (c) because of a failure to satisfy criterion 5 as applying to the applicant under section 15 in relation to the earlier application, the applicant repaid the grant.’.

**7 Amendment of s 15 (Criterion 5—Residence requirement)**

(1) Section 15, heading, ‘requirement’—

*omit, insert—*

‘**requirements**’.

(2) Subsection (2)—

*renumber* as subsection (4).

(3) Section 15(1)—

*omit, insert—*

‘(1) 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.

‘(2) However, if the commissioner is satisfied there are good reasons to do so, the commissioner may—

(a) approve a shorter period; or

(b) exempt the applicant from the requirement to comply with subsection (1).

‘(3) The period of occupation required under subsection (1), or the shorter period approved under subsection (2)(a), must start within 1 year after completion of the eligible transaction or a longer period approved by the commissioner.’.

(4) Section 15(4) as renumbered, ‘requirement if’—

*omit, insert—*

‘requirement under subsection (3) if’.

## **8 Amendment of s 22 (Payment in anticipation of compliance with residence requirement)**

(1) Section 22, ‘requirement’—

*omit, insert—*

‘requirements’.

(2) Section 22(1), from ‘each applicant’—

*omit, insert—*

‘each applicant intends to comply with the residence requirements.’.

(3) Section 22(2), ‘is not’—

*omit, insert—*

‘are not’.

## **9 Amendment of s 24 (Death of applicant)**

Section 24(3)—



*omit, insert—*

‘(3) Subsection (4) applies if—

- (a) a deceased applicant for a first home owner grant had not, when the applicant died, complied with criterion 5, as applying to the applicant under section 15 immediately before the applicant’s death; and
- (b) the commissioner is satisfied the applicant intended to comply with the criterion.

‘(4) The deceased applicant is taken to have complied with criterion 5.’.

## **10 Insertion of new s 69A**

After section 69—

*insert—*

### **‘69A Disqualifying arrangements**

‘(1) A disqualifying arrangement exists in relation to an application for a first home owner grant if—

- (a) a related person of an applicant for the application provides or will provide financial help to the applicant, directly or indirectly, to help the applicant enter into the eligible transaction to which the application relates; and
- (b) the related person has used, or will use, the home the subject of the eligible transaction, frequently or otherwise to a significant extent, in addition to any use of the home by the applicant; and
- (c) the related person would not be eligible for the grant had the related person entered into the eligible transaction; and
- (d) the commissioner is not satisfied that in the circumstances there are genuine family reasons for the matters mentioned in paragraphs (a) and (b).

‘(2) Without limiting subsection (1)(a), any of the following may be taken to be financial help provided by the related person—

- (a) the related person makes a gift of money or property, whether or not the gift is enough to meet all of the applicant’s obligations under the eligible transaction;
- (b) the related person makes a contribution towards the cost of—

- (i) the applicant complying with his or her obligations under the eligible transaction; or
- (ii) maintaining the home the subject of the eligible transaction;
- (c) the related person makes a loan repayment for the applicant in relation to the eligible transaction;
- (d) the related person forgives loan repayments otherwise owed by the applicant to the related person.

‘(3) A disqualifying arrangement exists in relation to an application for a first home owner grant if the commissioner is satisfied—

- (a) there is an arrangement the sole or main purpose of which is to obtain a first home owner grant, rather than acquiring a home; and
- (b) the application is made for the purposes of the arrangement.

‘(4) For subsection (3), the commissioner must have regard to the following—

- (a) the way the eligible transaction was entered into or carried out;
- (b) the nature of the connection, whether business, family or another connection, between the parties to the eligible transaction;
- (c) the amount of consideration payable under the eligible transaction;
- (d) the value of the home the subject of the eligible transaction;
- (e) the living and family arrangements of the applicant and any related person;
- (f) the financial circumstances of the applicant;
- (g) the source of funds used to complete the eligible transaction and meet the costs of owning and maintaining the home the subject of the eligible transaction.

‘(5) Subsection (4) does not limit the matters to which the commissioner may or ought to have regard for subsection (3).

‘(6) If a disqualifying arrangement exists in relation to an application for a first home owner grant the commissioner may—

- (a) if the application has not yet been approved—refuse the application; or

- (b) if the application was approved but the grant has not yet been paid—reverse the decision on the application and refuse to pay the grant; or
- (c) if the grant has already been paid—reverse the decision on the application and act under section 47 to recover the grant as an error amount, and to recover any penalty amount imposed under the section.

‘(7) The commissioner must give the applicant reasons for taking action under this section.

‘(8) In this section—

“**related person**”, of an applicant, means—

- (a) a parent, child, grandparent, sibling, uncle or aunt of the applicant; or
- (b) the spouse of any person mentioned in paragraph (a).’.

## 11 Insertion of new pt 7

After section 71—

*insert—*

### **‘PART 7—TRANSITIONAL PROVISIONS FOR FIRST HOME OWNER GRANT AMENDMENT ACT 2003**

#### **‘72 Continuing operation of Act for particular eligible transactions**

‘(1) This Act continues to apply in relation to a relevant application as if this Act had not been amended by the relevant provisions of the amending Act.

‘(2) In this section—

“**amending Act**” means the *First Home Owner Grant Amendment Act 2003*.

“**relevant application**” means an application for a first home owner grant, if the commencement date for the eligible transaction to which the application relates is a date earlier than 1 January 2004.

“**relevant provisions**”, of the amending Act, means the provisions of the amending Act commencing on the day this section commences, other than section 5.’.

**12 Amendment of schedule (Dictionary)**

(1) Schedule, definition “residence requirement”—

*omit.*

(2) Schedule—

*insert—*

‘**“residence requirements”** means the following requirements—

(a) the requirement—

(i) under section 15(1), 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

(ii) under section 15(1) and (2)(a), 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 shorter period approved by the commissioner;

(b) the requirement under section 15(3) that the period of occupation required under section 15(1), or section 15(1) and (2)(a), must start within 1 year after completion of the eligible transaction or a longer period approved by the commissioner.’.