

First Home Owner Grant and Other Home Owner Grants Regulation 2021

Explanatory notes for SL 2021 No. 18

made under the

First Home Owner Grant and Other Home Owner Grants Act 2000

General Outline

Short title

First Home Owner Grant and Other Home Owner Grants Regulation 2021 (2021 Regulation)

Authorising law

Sections 8(1)(i), 17(2), 71 and Schedule of the *First Home Owner Grant and Other Home Owner Grants Act 2000* (FHOG and Other Grants Act)

Policy objectives and the reasons for them

The *First Home Owner Grant and Other Home Owner Grants Regulation 2010* (2010 Regulation) contains provisions which are necessary to support administration of the FHOG and Other Grants Act, including provisions which are relevant to determining whether a First Home Owner Grant (the FHOG) is payable. It also contains provisions relating to amounts payable to the Commissioner of State Revenue (Commissioner) under the the FHOG and Other Grants Act, such as repayments of the FHOG and other home owner grants.

The 2010 Regulation was to expire on 1 September 2020 in accordance with section 54 of the *Statutory Instruments Act 1992*, which provides for the automatic expiry of subordinate legislation on 1 September first occurring after the 10th anniversary of the day of its making. However, the *Statutory Instruments (Exemptions from Expiry) Amendment Regulation 2020*, which commenced at the end of the day on 31 August 2020, provides that the 2010 Regulation is exempt from expiry until 31 August 2021 on the grounds that it is being replaced.

The Office of State Revenue conducted a sunset review of the 2010 Regulation in accordance with *The Queensland Government Guide to Better Regulation*. The sunset review confirmed the provisions of the 2010 Regulation are still necessary and appropriate for the proper administration of the FHOG and other home owner grants under the FHOG and Other Grants Act. No substantive changes were identified in the review. However, to maintain currency, minor changes are necessary, such as to update cross-references to

legislation and to expand the methods for making payments to the Commissioner to include particular electronic payment methods. Therefore, the 2010 Regulation is to be remade as the 2021 Regulation, with these changes along with other minor changes necessary to facilitate the remake and to accord with current drafting practices.

Achievement of policy objectives

The FHOG and Other Grants Act establishes a scheme for the payment of the FHOG in Queensland, as well as other particular grants to home owners, such as the Queensland Government's Regional Home Building Boost Grant (RHBBG) and the Australian Government's HomeBuilder Grant (HomeBuilder Grant).

With regard to the FHOG, all eligibility requirements are contained in the FHOG and Other Grants Act. In particular, the FHOG is payable on an application under the FHOG and Other Grants Act if each applicant for the grant complies with the eligibility criteria outlined in the FHOG and Other Grants Act and the transaction for which the grant is sought is an eligible transaction which has been completed. Under the FHOG and Other Grants Act, an eligible transaction is generally defined as a contract to purchase a new home, a contract to build a new home, or the building of a new home by an owner-builder.

The FHOG and Other Grants Act provides that an application for FHOG must be made to the Commissioner or an agent of the Commissioner by all interested persons who are, or will be, on completion of the eligible transaction to which the application relates, an owner of the relevant home, other than a person prescribed under a regulation. A person is an owner if they have a relevant interest in the land.

The FHOG and Other Grants Act authorises regulations to be made in respect of particular matters relating to the FHOG, including:

- what is a relevant interest in land for the purposes of determining whether an applicant meets the eligibility criteria of the FHOG;
- who is excluded from joining the application as an interested person for the FHOG; and
- the completion requirements for particular eligible transactions for the FHOG.

The FHOG and Other Grants Act also has a general regulation making head of power.

The FHOG and Other Grants Act provides for matters authorised under the regulation making heads of power identified above. Subject to the changes outlined below, the 2021 Regulation remakes the provisions of the 2010 Regulation to:

- declare certain interests that are relevant interests for the FHOG;
- prescribe persons who are not interested persons for the purposes of determining who is required to be included as an applicant in an application for the FHOG;
- outline the acceptable payment methods in relation to amounts payable to the Commissioner;
- prescribe the rate of any interest payable on an arrangement for payment by instalments of a liability outstanding under the FHOG and Other Grants Act; and
- prescribe a completion requirement for particular eligible transactions for the FHOG.

The 2021 Regulation will also include an amendment to update cross-references to legislation to ensure, for the purpose of the FHOG, that a particular declared relevant interest in land is accurately defined. An amendment will also be made to expand the

methods for making payments to the Commissioner to include electronic funds transfer, direct debit, BPAY and credit card. This will ensure the 2021 Regulation aligns with technological advancements and provides a greater number of payment methods that are generally regarded as more secure, convenient and efficient. The 2021 Regulation will also include other minor drafting and technical amendments to ensure it accords with current drafting practices.

Consistency with policy objectives of authorising law

The 2021 Regulation is consistent with the policy objectives of the FHOG and Other Grants Act, to establish a scheme for the payment of the FHOG to first home owners in Queensland as well as other particular grants to home owners. Additionally, the FHOG and Other Grants Act authorises the making of regulations relating to determining eligibility for the FHOG and facilitating the payment of amounts payable to the Commissioner.

Inconsistency with policy objectives of other legislation

The 2021 Regulation is not inconsistent with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

An alternative considered to achieve the policy objectives included allowing the 2010 Regulation to expire and instead enacting its provisions, with the necessary changes to maintain currency, in the FHOG and Other Grants Act. This alternative was not adopted as the provisions are technical or administrative in nature and are therefore more appropriately contained in a regulation.

Benefits and costs of implementation

The 2021 Regulation supports the administration of the FHOG and other particular grants to home owners under the FHOG and Other Grants Act. The provisions contained in the 2021 Regulation enable determination of eligibility for the FHOG and facilitate payment of amounts owed to the Commissioner.

As the 2021 Regulation remakes the 2010 Regulation with only minor changes to maintain currency and to facilitate the remake, implementation costs for Government are not expected to be significant and can be met within existing allocations.

Consistency with fundamental legislative principles

The 2021 Regulation is consistent with fundamental legislative principles. Its provisions are consistent with the objectives of, and are within scope of, the regulation making powers in the FHOG and Other Grants Act.

Consultation

The Office of Best Practice Regulation (OBPR), Queensland Productivity Commission, was consulted on the sunset review of the 2010 Regulation. OBPR considers that it remains relevant and is unlikely to impose significant adverse impacts. Accordingly, OBPR advised that no further regulatory impact analysis was required under the *The Queensland Government Guide to Better Regulation*.