

Homes Savings Grant Amendment Act 1979

No. 186 of 1979

An Act to amend the *Homes Savings Grant Act 1976*.

BE IT ENACTED by the Queen, and the Senate and House of Representatives of the Commonwealth of Australia, as follows:

1. (1) This Act may be cited as the *Homes Savings Grant Amendment Act 1979*.¹ Short title,
& c.

(2) The *Homes Savings Grant Act 1976*² is in this Act referred to as the Principal Act.

2. This Act shall be deemed to have come into operation on 25 May 1979. Commence-
ment

3. Section 4 of the Principal Act is amended—

(a) by omitting from sub-section (1) the definition of “Department” and substituting the following definition:

“‘Department’ means the Department of Housing and Construction;”;

(b) by inserting after the definition of “relevant savings period” in that sub-section the following definition:

“‘rural property’ means—

(a) land used wholly or substantially for carrying on the business of primary production; or

(b) land that the Secretary is satisfied should, having regard to its extent, location, use or zoning, be regarded as a rural property for the purposes of this Act;”;

(c) by adding at the end of that sub-section the following definition:

“‘valuation date’ in relation to a dwelling-house the value of which has been determined under section 14A, means whichever of the dates referred to in paragraphs 14A (1) (a), (b) and (c) is applicable in relation to the dwelling-house.”.

4. Section 11 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(5) For the purposes of this section, the purchase or ownership of shares in the capital of a company by a person or persons (in this sub-section referred to as the ‘relevant person’ or ‘relevant persons’) jointly

Purchase
or owner-
ship of land
or dwelling-
house

with another person or other persons, being shares that, together with an agreement between the relevant person or relevant persons and that other person or those other persons, entitle the relevant person or relevant persons to an exclusive right of occupancy in respect of a dwelling-house of a kind commonly known as a flat or home unit, shall, if the Secretary in his discretion so determines, be treated as if it were the purchase or ownership, as the case may be, of those shares by the relevant person or relevant persons, as the case may be.”.

Dwelling-house on rural property

5. Section 13 of the Principal Act is amended by omitting sub-section (2).

6. After section 14 of the Principal Act the following section is inserted in Part II:

Value of dwelling-house

“14A. (1) For the purposes of this Act, the value of a dwelling-house to which an application relates is the amount determined by the Secretary to be the value of the relevant interest owned or to be owned by the applicants or by some or all of the applicants, as the case may be, that relates to the dwelling-house, being—

- (a) in the case of a dwelling-house the construction of which was completed on or before the date that is the prescribed date in relation to the applicant or applicants—the value of that relevant interest on that date;
- (b) in the case of a dwelling-house the construction of which was completed after the date that is the prescribed date in relation to the applicant or applicants but before the date on which a decision on the application is made—the value of that relevant interest on the last-mentioned date; and
- (c) in any other case—the amount that, if the construction of the dwelling-house had been completed on the date on which a decision on the application is made, would have been the value of that relevant interest on that date.

“(2) For the purposes of the making of a determination under sub-section (1)—

- (a) the Secretary shall have regard to all matters that he considers relevant, including—
 - (i) the improvements that have been, are being or are to be made on or to the relevant land;
 - (ii) any valuation of the relevant land, or of any improvements that have been, are being or are to be made on or to the relevant land, being a valuation made by or on behalf of the Commissioner of Taxation, at the request of the Secretary, for the purposes of the application;
 - (iii) the cost to the applicant or applicants of the relevant interest that relates to the dwelling-house;

- (iv) in the case of a dwelling-house not of a kind commonly known as a flat or home unit—the cost of construction of the dwelling-house and of making any other improvements that have been, are being or are to be made on or to the relevant land; and
 - (v) such other matters as are prescribed,
- but is not required to have regard to any valuation of the dwelling-house other than a valuation referred to in subparagraph (ii);
- (b) any part of the improvements that have been, are being or are to be made on or to the relevant land that the Secretary is satisfied is not, or will not be, used by the applicant or applicants, as the case may be, as a dwelling-house or for purposes connected with the use by the applicant or applicants of the dwelling-house as a dwelling-house shall be deemed not to form part of the dwelling-house;
 - (c) in the case of a dwelling-house other than a dwelling-house to which paragraph (d) applies—any part of the relevant land that the Secretary is satisfied is not, or will not be, used by the applicant or applicants, as the case may be, for purposes connected with the use by the applicant or applicants of the dwelling-house as a dwelling-house shall be deemed not to form part of the relevant land; and
 - (d) in the case of a dwelling-house that is, is being or is to be constructed on land that forms part of a rural property—
 - (i) the area of the relevant land shall be deemed to be 0.2 hectare; and
 - (ii) the unimproved value per hectare of that area shall be deemed to be equal to the unimproved value per hectare of the rural property as determined by the Secretary.

“(3) In this section—

‘relevant interest’, in relation to a dwelling-house, means—

- (a) in the case of a dwelling-house not of a kind commonly known as a flat or home unit—an approved interest in the relevant land; and
- (b) in the case of a dwelling-house of a kind commonly known as a flat or a home unit—
 - (i) an approved interest in the flat or home unit;
 - (ii) shares in the capital of a company that is the beneficial owner of an approved interest in the relevant land, being the 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) an undivided share in an approved interest in the relevant land, being a share the owner of which is or is to be entitled, or the owners of which are or are to be entitled, by virtue of an agreement with all the other owners of undivided shares in the land, to a right of occupancy in respect of the flat or home unit,

as the case may be;

‘relevant land’, in relation to a dwelling-house to which an application relates, means—

- (a) in the case of a dwelling-house not of a kind commonly known as a flat or home unit—the land on which the dwelling-house is, is being or is to be constructed, including the land comprising the curtilage of the dwelling-house; and
- (b) in the case of a dwelling-house of a kind commonly known as a flat or home unit—the land on which the building containing the flat or home unit is, is being or is to be constructed including the land comprising the curtilage of the building.”.

Grant not payable unless acceptable savings held and other conditions satisfied

7. Section 19 of the Principal Act is amended by adding at the end thereof the following sub-sections:

“(5) A grant shall not be made in respect of a dwelling-house if the value of the dwelling-house exceeds the amount that, on the date that is the valuation date in relation to the dwelling-house, was the maximum qualifying value.

“(6) For the purposes of sub-section (5), the maximum qualifying value is \$40,000 or, if another amount is prescribed for the purposes of this sub-section, that other amount.”.

Acceptable savings of sole applicant to include certain moneys expended in connection with purchase or construction of dwelling-house

8. Section 23 of the Principal Act is amended by inserting “, subject to section 24A,” after “shall” in paragraph (a) of sub-section (1).

9. Section 24 of the Principal Act is amended by inserting “, subject to section 24A,” after “shall” in paragraph (a) of sub-section (1).

Acceptable savings of joint applicants to include certain moneys expended in connection with purchase or construction of dwelling-house

10. After section 24 of the Principal Act the following section is inserted:

“24A. (1) Where the Secretary is satisfied that any part of a dwelling-house or of the land on which a dwelling-house has been constructed or commenced to be constructed is not, or will not be, used by the applicant or applicants, as the case may be, as a dwelling-house or for purposes connected with the use by the applicant or applicants of the dwelling-house as a dwelling-house, an amount that, but for this sub-section, would be treated, in accordance with paragraph 23 (1) (a) or 24 (1) (a), as included in the acceptable savings of the applicant or applicants shall be reduced by an amount that bears to the first-mentioned amount the same proportion as the value of that part of the dwelling-house or of that part of the land, as the case may be, bears to the value of that dwelling-house or land, as the case may be.

Reduction of amounts included in acceptable savings where dwelling-house or land not wholly for residential use

“(2) For the purposes of sub-section (1), the value of a part of a dwelling-house or of a part of land on which a dwelling-house has been constructed or commenced to be constructed is the amount determined by the Secretary to be the value, on the valuation date, of that part of the dwelling-house or that part of that land, having regard to the value of the dwelling-house.”.

11. Section 31 of the Principal Act is amended by adding at the end thereof the following sub-sections:

Maximum amount of grant

“(14) Notwithstanding anything in the preceding provisions of this section, where the value of a dwelling-house to which an application relates exceeds the amount that, on the date that is the valuation date in relation to the dwelling-house, was the relevant value but does not exceed the amount that, on that date, was the maximum qualifying value for the purposes of sub-section 19 (5), the amount of the grant is the amount

$a(b-c)$

ascertained in accordance with the formula $\frac{a(b-c)}{(b-d)}$, where—

$(b-d)$

a is the amount that, but for this sub-section, would be the amount of the grant;

b is the amount that was, on the valuation date, the maximum qualifying value for the purposes of sub-section 19 (5);

c is the value of the dwelling-house; and

d is the amount that was, on the valuation date, the relevant value.

“(15) For the purposes of sub-section (14), the relevant value is \$35,000 or, if another amount is prescribed for the purposes of this sub-section, that other amount.”.

Evidence

12. Section 52 of the Principal Act is amended by inserting in sub-section (1) “to the Department of Environment, Housing and Community Development, Secretary to the Department of Housing and Construction” after “Secretary”.

**Application
of
amendments**

13. The amendments made by this Act apply in relation to an application for a grant under the *Homes Savings Grant Act* 1976 by an applicant, or by applicants, in relation to whom the date that is the prescribed date for the purposes of that Act is a date later than 24 May 1979.

NOTES

1. Act No. 186, 1979; assented to 4 December 1979.
2. Act No. 183, 1976.