

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Home Affairs
Christmas Island Act 1958
Cocos (Keeling) Islands Act 1955
Applied Laws (Implementation) Amendment Ordinance 2008 (No. 1) (CI)
Applied Laws (Implementation) Amendment Ordinance 2008 (No. 1) (CKI)

Subsection 9(1) of the *Christmas Island Act 1958* (CI Act) and subsection 12(1) of the *Cocos (Keeling) Islands Act 1955* (CKI Act) provide that the Governor-General may make Ordinances for the peace, order and good government of those Territories.

Subsections 8A(1) of both Acts provide that Western Australian laws are in force in the Territories. Subsections 8A(2) of both Acts provide that Western Australian laws in force can be amended or repealed by an Ordinance.

Section 3 of *Applied Laws (Implementation) Ordinance 1992* (CI) & (CKI) provides that the applied laws in Schedule 1 are amended as set out in that Schedule. Section 6 provides that the applied laws in Schedule 4 are repealed.

The First Home Owners Grant (FHOG) scheme was introduced to compensate first home buyers for the increased cost of homes as a result of the introduction of the Goods and Services Tax (GST). It is Australian Government policy that GST is not charged in Christmas Island and the Cocos (Keeling) Islands. As the FHOG is intended to offset the GST, it is also Australian Government policy that the FHOG is not available to Christmas Island and Cocos (Keeling) Islands residents.

However, the FHOG scheme is based on state-level legislation. The applied Western Australian Acts, the *First Home Owner Grant Act 2000* (WA)(CI) & (CKI) (FHOG Acts), allow Christmas Island and Cocos (Keeling) Islands residents to claim the FHOG even though this conflicts with Australian Government policy. If Christmas Island and Cocos (Keeling) Islands residents applied for the FHOG their application would be refused on the basis that it is Australian Government policy that the FHOG is not available to them. The Ordinances repeal the *First Home Owner Grant Act 2000* (WA)(CI) & (CKI) to align the territory legislation with the Australian Government policy.

In Western Australia, first home buyers can also access concessional rates of stamp duty under the *Duties Act 2008* (WA). Christmas Island and Cocos (Keeling) Islands residents cannot access the concessional rates of stamp duty for first home buyers, because the eligibility requirements in the *Duties Act 2008* (WA)(CI) & (CKI) are linked to receiving a FHOG and, as outlined above, residents cannot receive a FHOG. However, the concessional rates of stamp duty are not linked to the GST and it is intended that eligible Christmas Island and Cocos (Keeling) Islands residents should be able to access them. Schedule 1 of the Ordinances amend the *Duties Act 2008* (WA)(CI) & (CKI) by substituting the eligibility criteria for the concessional rates of stamp duty with eligibility criteria that Christmas Island and Cocos (Keeling) Islands residents can satisfy. The new eligibility criterion is that a FHOG would have been payable if the FHOG Act had applied to the applicant.

The Ordinances will remove any possible confusion about whether the FHOG scheme applies to Christmas Island and the Cocos (Keeling) Islands. Access to the concessional rates of stamp duty will provide significant assistance to Christmas Island and Cocos (Keeling) Islands residents purchasing their first home.

No consultation has been undertaken in relation to the Ordinances as Christmas Island and Cocos (Keeling) Island residents are aware that the FHOG is not available to them and the Ordinances are merely aligning the legislation with Australian Government policy.

The Ordinances are legislative instruments for the purposes of the *Legislative Instruments Act 2003*.

The Ordinances will commence on 1 July 2008.

Details of the Christmas Island Ordinance is set out in Attachment A and details of the Cocos (Keeling) Islands Ordinance is set out in Attachment B.

ATTACHMENT A

Details of the *Applied Laws (Implementation) Amendment Ordinance 2008 (No. 1)*

Section 1 – Name of Ordinance

Section 1 provides that the name of the Ordinance is the *Applied Laws (Implementation) Amendment Ordinance 2008 (No. 1)*.

Section 2 – Commencement

Section 2 provides that the Ordinance will commence on 1 July 2008.

Section 3 – Amendment of *Applied Laws (Implementation) Ordinance 1992*

Section 3 provides that Schedule 1 to the Ordinance amend the *Applied Laws (Implementation) Ordinance 1992*.

Schedule 1

Item [1] – Schedule 1, after Part 10

Item 1 inserts Part 10A into Schedule 1 to the *Applied Laws (Implementation) Ordinance 1992*. This has the effect of amending the *Duties Act 2008 (WA)(CI)* by omitting subparagraphs 142(1)(a)(i) and (ii) and paragraph 142(2)(a) and substituting new provisions in their place.

Item [2] – Schedule 4

Item 2 inserts the *First Home Owner Grant Act 2000 (WA)(CI)* into Schedule 4 to the *Applied Laws (Implementation) Ordinance 1992 (CI)*. This has the effect of repealing the *First Home Owner Grant Act 2000 (WA)(CI)*.

ATTACHMENT B

Details of the *Applied Laws (Implementation) Amendment Ordinance 2008 (No. 1)*

Section 1 – Name of Ordinance

Section 1 provides that the name of the Ordinance is the *Applied Laws (Implementation) Amendment Ordinance 2008 (No. 1)*.

Section 2 – Commencement

Section 2 provides that the Ordinance will commence on 1 July 2008.

Section 3 – Amendment of *Applied Laws (Implementation) Ordinance 1992*

Section 3 provides that Schedule 1 to the Ordinance amend the *Applied Laws (Implementation) Ordinance 1992*.

Schedule 1

Item [1] – Schedule 1, after Part 10

Item 1 inserts Part 10A into Schedule 1 to the *Applied Laws (Implementation) Ordinance 1992*. This has the effect of amending the *Duties Act 2008 (WA)(CKI)* by omitting subparagraphs 142(1)(a)(i) and (ii) and paragraph 142(2)(a) and substituting new provisions in their place.

Item [2] – Schedule 4

Item 2 inserts the *First Home Owner Grant Act 2000 (WA)(CKI)* into Schedule 4 to the *Applied Laws (Implementation) Ordinance 1992*. This has the effect of repealing the *First Home Owner Grant Act 2000 (WA)(CKI)*.