

Legislative Council—No 137

As received from the House of Assembly and read a first time, 18 June 2008

South Australia

Statutes Amendment (Budget 2008) Bill 2008

A BILL FOR

An Act to amend the *First Home Owner Grant Act 2000*, the *Stamp Duties Act 1923* and the *Pay-roll Tax Act 1971*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Statutes Amendment (Budget 2008) Act 2008*.

2—Commencement

- 5 (1) Part 1 will come into operation on the day on which this Act is assented to by the Governor.
- (2) Parts 2 and 3 will be taken to have come into operation on 5 June 2008.
- (3) Part 4 will be taken to have come into operation on 1 July 2008.
- 10 (4) Schedule 1 will come into operation on the day on which this Act is assented to by the Governor.

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *First Home Owner Grant Act 2000*

4—Insertion of section 18B

After section 18A insert:

18B—Bonus grant

- 5 (1) Subject to this section, the amount of a first home owner grant under section 18 will be increased by an amount under this section (the *first home bonus grant*) if—
- (a) the commencement date of the eligible transaction is on or after 5 June 2008; and
- 10 (b) the market value of the home to which the eligible transaction relates is less than \$450 000.
- (2) Subject to subsection (3), the amount of the first home bonus grant is as follows:
- (a) if the market value of the home to which the eligible transaction relates does not exceed \$400 000—\$4 000;
- 15 (b) if the market value of the home to which the eligible transaction relates exceeds \$400 000 (but is less than \$450 000)—an amount calculated in accordance with the following formula:
- $$20 \quad A = B - \left(\frac{C (D - E)}{100} \right)$$
- where—
- A* is the amount of the first home bonus grant
- B* is \$4 000
- C* is 8
- 25 *D* is the market value of the home to which the eligible transaction relates, rounded down to the nearest \$100
- E* is \$400 000.
- (3) If, in a particular case, the sum of the first home owner grant and the amount determined under subsection (2) would exceed the consideration for the eligible transaction, the amount of the first home bonus grant under this section will be the consideration for the eligible transaction less the amount of the first home owner grant.
- 30 (4) For the purposes of this section, but subject to subsections (5) and (6), the market value of the home to which an eligible transaction relates (*the market value*) will be determined as follows:
- 35 (a) in the case of an eligible transaction constituted by a contract under section 13(1)(a)—the market value will be taken to be—

(i) unless subparagraph (ii) applies—the consideration for the eligible transaction;

(ii) if the Commissioner considers that the consideration for the eligible transaction may be less than the market value—the market value of the property on which the home is situated, as determined by the Commissioner for the purposes of this provision;

(b) in the case of an eligible transaction constituted by a comprehensive home building contract under section 13(1)(b)—the market value will be taken to be the sum of the following:

(i) —

(A) unless subsubparagraph (B) applies—the consideration for the comprehensive home building contract under section 13(7);

(B) if the Commissioner considers that the total consideration payable for the relevant building work may be less than the actual costs to build the home—the actual costs to build the home, as determined by the Commissioner for the purposes of this provision; and

(ii) the market value of the property on which the home is to be built, as at the time when the building contract is made, as determined by the Commissioner for the purposes of this provision;

(c) in the case of an eligible transaction constituted by the building of a home by an owner builder under section 13(1)(c)—the market value will be taken to be the market value of the property on which the home is situated, as at the time when the eligible transaction is completed, as determined by the Commissioner for the purposes of this provision.

(5) For the purposes of subsection (4), if an eligible transaction relates to a home on a genuine farm, the relevant component of the farm will be taken to constitute the property on which the home is situated, or is to be built.

(6) If a person is entitled to a first home owner grant by virtue of the operation of section 5(4)—

(a) if the relevant interest relates to a comprehensive home building contract for the construction of a home—the market value of the home to which the eligible transaction relates will be taken to be the consideration for the comprehensive home building contract;

- (b) in any other case—the market value of the home to which the eligible transaction relates will be determined in accordance with a method prescribed by the regulations.
- 5 (7) The Commissioner may adopt or approve any method the Commissioner considers reasonable for the purposes of determining any value or costs under a preceding subsection, including by requiring that a valuation of property be made by a person appointed or approved by the Commissioner.
- 10 (8) If the Commissioner requires a valuation of property to be made for the purposes of determining the value of any property under this section, the Commissioner may, having regard to the merits of the case, charge the whole or any part of the expenses of, or incidental to, the making of the valuation to the applicant or applicants for the first home bonus grant and may recover the amount so charged from the applicant or applicants as a debt due to the Crown.
- 15 (9) To avoid doubt, the market value of any property on which a home to which a grant under this section relates is situated will be the market value of the land, the home and any other improvements.
- 20 (10) This section does not give rise to an entitlement to a first home bonus grant if the Commissioner is satisfied that the contract that formed the basis of the eligible transaction replaces a contract made before 5 June 2008 (*the earlier contract*), and that the earlier contract was—
- (a) a contract for the purchase of the same home; or
- 25 (b) a comprehensive home building contract to build the same or a substantially similar home.
- (11) In this section—
- genuine farm* means land as to which the Commissioner is satisfied—
- 30 (a) the land is to be used for primary production by the person seeking the benefit of this section; and
- (b) the land is, by itself, or in conjunction with other land owned by that person, capable of supporting economically viable primary production operations;
- 35 *relevant component* of a genuine farm means the part of the farm constituted by the home and its curtilage, or the part of the land that is to constitute the site and curtilage of a home that is to be built.

Part 3—Amendment of *Stamp Duties Act 1923*

5—Amendment of section 71C—Concessional rates of duty in respect of purchase of first home etc

Section 71C—after subsection (7) insert:

- 5 (8) This section does not apply to a conveyance—
- (a) if the conveyance gives effect to a contract entered into on or after 5 June 2008; or
- 10 (b) if the conveyance relates to land where a party to the conveyance has, on or after 5 June 2008, entered into a contract for the construction of a dwelling house on the relevant land (as described in subsection (1)(a)(iv)(A)); or
- (c) if the conveyance relates to land where the construction of a dwelling house has commenced on or after 5 June 2008.

Part 4—Amendment of *Pay-roll Tax Act 1971*

15 6—Amendment of section 9—Imposition of pay-roll tax on taxable wages

Section 9(1)(g)—delete paragraph (g) and substitute:

- (g) in relation to wages paid or payable on or after 1 July 2008 and before 1 July 2009—5% of those wages;
- 20 (h) in relation to wages paid or payable on or after 1 July 2009—4.95% of those wages.

7—Amendment of section 11A—Deduction from taxable wages

Section 11A(1), definition of *prescribed amount*, (a)(iv)—delete subparagraph (iv) and substitute:

- 25 (iv) commencing on or after 1 July 2002 and ending before 1 July 2008, means \$42 000;
- (v) commencing on or after 1 July 2008 and ending before 1 July 2009, means \$46 000;
- (vi) commencing on or after 1 July 2009, means \$50 000;

8—Amendment of section 13A—Meaning of prescribed amount

30 Section 13A(2)(c), definition of *A*—delete the definition and substitute:

A is—

- (a) in relation to a financial year commencing before 1 July 2002—\$456 000;
- 35 (b) in relation to a financial year commencing on or after 1 July 2002 and before 1 July 2008—\$504 000;
- (c) in relation to the financial year commencing on 1 July 2008—\$552 000;

- (d) in relation to a financial year commencing on or after 1 July 2009—
\$600 000

9—Amendment of section 14—Registration

Section 14(4)—delete "the *prescribed amount* is \$8 000" and substitute:

5 the *prescribed amount* is—

- (a) in relation to the financial year commencing on 1 July 2008—
\$10 000;
- (b) in relation to a financial year commencing on or after 1 July 2009—
\$11 000.

10—Amendment of section 18K—Interpretation

Section 18K(2)(c), definition of *A*—delete the definition and substitute:

A is—

- (a) in relation to a financial year commencing before 1 July 2002—
\$456 000;
- 15 (b) in relation to a financial year commencing on or after 1 July 2002
and before 1 July 2008—\$504 000;
- (c) in relation to the financial year commencing on 1 July 2008—
\$552 000;
- 20 (d) in relation to a financial year commencing on or after 1 July 2009—
\$600 000

Schedule 1—Transitional provisions

1—Transitional provisions

(1) If—

- 25 (a) a person is entitled to a first home bonus grant under section 18B of the *First
Home Owner Grant Act 2000*, as enacted by this Act (*the relevant
entitlement*); and
- (b) the person has—
- 30 (i) in respect of a conveyance that relates to the land on which the home
under that Act is situated or is to be built (as the case may be),
received a benefit under section 71C of the *Stamp Duties Act 1923*;
or
- 35 (ii) received a benefit constituted by an *ex gratia* payment by the State in
order to provide for the first home bonus grant envisaged by this Act
for the period between 5 June 2008 and the date of enactment of this
Act,

the amount of the relevant entitlement will be reduced by the amount of the benefit
provided under section 71C of the *Stamp Duties Act 1923* or by the amount of the
ex gratia payment, or both (including so as to fully set off the amount of the relevant
entitlement).

(2) If—

(a) a person has received a benefit constituted by an *ex gratia* payment by the State in order to provide for the first home bonus grant envisaged by this Act for the period between 5 June 2008 and the date of the enactment of this Act; and

(b) the person has also, in respect of a conveyance that relates to the land on which the home that is relevant to the *ex gratia* payment is situated, or is to be built, (as the case may be), received a benefit under section 71C of the *Stamp Duties Act 1923* (*the relevant benefit*),

the Commissioner of State Taxation may recover the amount of the relevant benefit from any person who claimed that benefit as a debt due to the Crown.

(3) If—

(a) a person has received a benefit under section 71C of the *Stamp Duties Act 1923* (*the relevant benefit*); and

(b) the conveyance on which the benefit is based falls within the ambit of subsection (8) of section 71C of the *Stamp Duties Act 1923* (as enacted by this Act),

the Commissioner of State Taxation may recover the amount of the relevant benefit from any person who claimed that benefit as a debt due to the Crown.

(4) To avoid doubt, any set off or right of recovery under this clause extends to a benefit obtained before the commencement of this clause.