

South Australia

# **First Home and Housing Construction Grants (Eligibility Criteria) Amendment Act 2013**

An Act to amend the *First Home and Housing Construction Grants Act 2000*.

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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 *First Home and Housing Construction Grants (Eligibility Criteria) Amendment Act 2013*.

### **2—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 and Housing Construction Grants Act 2000***

### **3—Amendment of section 7—Entitlement to grants**

Section 7(5)—delete "Only" and substitute:

Subject to section 12A, only

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#### 4—Insertion of section 12A

After section 12 insert:

##### **12A—Criteria—housing construction grant**

- (1) Subject to this section, an applicant for a housing construction grant must be—
  - (a) a person who has entered into a contract for the purchase of the new home; or
  - (b) a person for whom the new home is being built under a comprehensive home building contract; or
  - (c) an owner builder who is building the new home.
- (2) An applicant under subsection (1)(b) or (c) must—
  - (a) satisfy the Commissioner—
    - (i) that he or she has not entered into a contract with a person to sell the new home; and
    - (ii) that he or she has no intention to enter into a contract for the sale of the new home before 1 January 2014; or
  - (b) satisfy the Commissioner that he or she is a party to a contract to sell the new home with a person who is entitled to make an application under subsection (1)(a) (*the purchaser*) and, under the terms of the contract, he or she is entitled to apply for the housing construction grant rather than the purchaser.
- (3) If—
  - (a) a housing construction grant is paid in the case of an application where the applicant has satisfied the Commissioner as to the matters referred to in subsection (2)(a); and
  - (b) the person to whom the grant was paid (*the first grant recipient*), before 1 January 2014, enters into a contract for the sale of the new home to another person (*the purchaser*); and
  - (c) the purchaser makes an application under subsection (1),then—
  - (d) a housing construction grant may be paid to the purchaser if the Commissioner is satisfied—
    - (i) that the contract between the first grant recipient and the purchaser constitutes a genuine sale of the new home; and

- (ii) that no agreement exists between the first grant recipient and the purchaser that the first grant recipient is entitled to apply for the housing construction grant rather than the purchaser; and
  - (e) the Commissioner may, by written notice, require the first grant recipient to repay the amount of the housing construction grant that has been paid to him or her.
- (4) If, in a case where subsection (2)(a) has applied, and the Commissioner issues a notice under subsection (3)(e), the first grant recipient must also pay to the Commissioner, at the time of repayment of the amount of the housing construction grant paid to the first grant recipient, an additional amount equal to the amount of the grant unless the Commissioner is satisfied that the first grant recipient genuinely changed his or her intention about not entering into a contract of a kind referred to in subsection (2)(a)(ii) due to extraordinary and unforeseen circumstances occurring after the housing construction grant was paid to the first grant recipient.
- (5) An amount payable under subsection (3)(e) or (4) (or both) must be paid to the Commissioner within a period (of at least 14 days) specified by the Commissioner.  
Maximum penalty: \$5 000.
- (6) In connection with the operation of subsection (3)—
  - (a) the Commissioner may make a payment under subsection (3)(d) despite section 7(5) (and whether or not an amount is recovered under subsection (3)(e)); and
  - (b) to avoid doubt, the Commissioner may, in deciding whether a contract constitutes a genuine sale of the new home, take into account the matters referred to in section 18BAB(5), (6) and (7).

**5—Amendment of section 40—Power to recover amount paid in error etc**

Section 40(1)—after paragraph (c) insert:

- (d) an amount that a person is required to pay under section 12A(3)(e) or (4).