

Contents	Page
What this Ruling is about	1
Ruling and explanation	2
Date of effect	2
References	2

Public Ruling

First Home Owner Grant Act: RESIDENCE REQUIREMENTS— COMMISSIONER DISCRETIONS

A Public Ruling, when issued, is the published view of the Commissioner of State Revenue (the Commissioner) on the particular topic to which it relates. It therefore replaces and overrides any existing private rulings, memoranda, manuals and advice provided by the Commissioner in respect of the issue(s) it addresses. Where a change in legislation or case law (the law) affects the content of a Public Ruling, the change in the law overrides the Public Ruling—that is, the Commissioner will determine the tax liability or eligibility for a concession, grant or exemption, as the case may be, in accordance with the law.

What this Ruling is about

- Under the *First Home Owner Grant Act 2000* (the FHOG Act), an applicant for a first home owner grant must occupy the home to which the application relates as the applicant's principal place of residence for a continuous period of at least 6 months starting within 1 year after completion of the eligible transaction (residence requirements).¹
- However, the Commissioner has the following discretions under the FHOG Act (the residence discretions) in relation to these residence requirements.
 - Approve a shorter period of occupancy²
 - Extend the period within which the applicant must start occupation³
 - Exempt the applicant from the requirement to occupy the home to which the application relates as the applicant's principal place of residence for a continuous period of at least 6 months⁴
 - Exempt an applicant from the requirement to start occupation within 1 year after completion of the eligible transaction⁵.
- Legal advice indicates that where the periods specified by the residence requirements have expired, the Commissioner is unable to exercise the residence discretions.

¹ Section 15(1) and (3) of the FHOG Act

² Section 15(2) of the FHOG Act

³ Section 15(3) of the FHOG Act

⁴ Section 15(2) of the FHOG Act

⁵ Section 15(4) of the FHOG Act

FHOGA015.2.1

2 of 2

4. On 4 July 2013, an administrative arrangement was approved, pending legislative amendment, to enable the FHOG Act to be administered on the basis that the residence discretions may be exercised whether or not the periods specified by the residence requirements have expired.
5. This Public Ruling sets out the terms of the administrative arrangement.

Ruling and explanation

6. Pending amendment of the FHOG Act, the Commissioner may exercise any of the residence discretions, whether or not the period to which the relevant discretion relates has expired.

Date of effect

7. This Public Ruling takes effect from the date of issue.

David Smith
Commissioner of State Revenue
Date of issue: 12 July 2013

References

Public Ruling	Issued	Dates of effect	
		From	To
FHOGA015.2.1	12 July 2013	12 July 2013	28 July 2013