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Public Ruling

First Home Owner Grant Act: WHEN MUST THE ELIGIBILITY CRITERIA BE SATISFIED

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

1. The *First Home Owner Grant Act 2000* (the FHOG Act) provides that the first home owner grant (the grant) is payable on application if the applicant (or if there are two or more applicants, each of the applicants) complies with the eligibility criteria and the transaction for which the grant is sought is an eligible transaction and has been completed.¹
2. Sections 11–15 of the FHOG Act outline the five eligibility criteria which must be satisfied by an applicant for a grant to be approved.
3. This Public Ruling clarifies when an applicant must satisfy the eligibility criteria for a grant to be approved under the FHOG Act.

Ruling and explanation

4. Except for the eligibility criteria mentioned in paragraph 5 below, all eligibility criteria in the FHOG Act must be satisfied at the time the application for the grant is made. This is the case regardless of whether the applicant satisfies the eligibility criteria prior to or after the application for the grant is made. If the applicant does not satisfy the eligibility criteria on the date the application is made, the grant will not be approved.

¹ Section 10(1) of the FHOG Act

FHOGA010.1.1

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5. The eligibility criteria which are exceptions to the rule mentioned in paragraph 4 are:
- (a) Eligibility criterion 1 which requires an applicant to be a natural person who is at least 18 years old at the time of commencing the eligible transaction, regardless of when the application for the grant is made.²
 - (b) Eligibility criterion 5 which requires an applicant to occupy the home for a continuous period of six months and for the occupation to commence within one year after the completion of the eligible transaction.³
6. An application for a grant is made on the date the completed application is received by the Commissioner or an agent of the Commissioner.

Date of effect

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

David Smith
 Commissioner of State Revenue
 Date of Issue 24 February 2009

References

Public Ruling	Issued	Dates of effect	
		From	To
FHOGA010.1.1	24 February 2009	24 February 2009	2 November 2020
Supersedes Practice Direction FHOG 11.1	18 October 2004	18 October 2004	23 February 2009

² Section 11(1)(b) of the FHOG Act

³ Section 15 of the FHOG Act