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## Public Ruling

### First Home Owner Grant Act: SIGNING A FIRST HOME OWNER GRANT APPLICATION BY A PERSON OTHER THAN AN APPLICANT

*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. Section 16(2) of the *First Home Owner Grant Act 2000* (the FHOG Act) prescribes that an application in the approved form must be lodged with the Commissioner in order for the application to be considered (application).
2. The application is in the form of a declaration which must be made and signed by the applicant.
3. The purpose of this Public Ruling is to clarify whether an application signed by a person other than the applicant would be accepted for the purposes of allowing the first home owner grant.

## Ruling and explanation

4. Subject to paragraph 8, the Commissioner will generally reject an application which has been signed by a person other than the applicant. This includes an application signed under a power of attorney for the applicant.
5. The *Powers of Attorney Act 1998* does not provide for a person appointed under a power of attorney to sign declarations on behalf of the person authorising the power of attorney.

**FHOGA016.1.1**

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6. The application requires an applicant to declare, amongst other things, the following:
- whether the applicant has previously owned residential property
  - the applicant's intention to use the purchased residence as his or her principal place of residence within 12 months of settlement or completion of building (as the case may be) and
  - the applicant's agreement to notify the Commissioner of any changes which may affect the applicant's eligibility for the first home owner grant.
7. Given this, it is reasonable to conclude that the applicant is the only person who can complete the application as the applicant is the only person who would:
- know the history of his or her residential ownership with any certainty
  - be absolutely aware of his or her intention to use the property as his or her principal place of residence, especially if the applicant has not taken up residence at the time of completion of the application and
  - know and be required to notify the Commissioner of changes in circumstances which may affect the applicant's eligibility for the first home owner grant.
8. Paragraphs 4–7 of this Public Ruling do not apply where a guardian<sup>1</sup> signs an application on behalf of a person who is under a legal disability. In this case, the person under the legal disability is regarded as the applicant.<sup>2</sup>

**Date of effect**

9. 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
FHOGA016.1.1	24 February 2009	24 February 2009	2 November 2020
Supersedes Practice Direction FHOG 1.1	27 April 2001	27 April 2000	23 February 2009

<sup>1</sup> See the definition of 'guardian' in Schedule 2 of the FHOG Act

<sup>2</sup> Section 18 of the FHOG Act