

Contents	Page
What this ruling is about	1
Ruling and explanation	2
Date of effect	3
References	3

Public Ruling

First Home Owner Grant and Other Home Owner Grants Act 2000: ADMINISTRATIVE ARRANGEMENT— EXTENSION OF DEFINITION OF ‘NEW HOME’

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. This public ruling sets out the terms of an administrative arrangement that enables the Commissioner to administer the *First Home Owner Grant and Other Home Owner Grants Act 2000* (Grants Act) and the Regional Home Building Boost Grant (RHBBG) Administrative Direction (Administrative Direction) on the basis that the definition of ‘new home’ includes homes that have previously been sold under certain builders’ terms arrangements in particular circumstances.
2. The First Home Owner Grant (FHOG) is available to eligible first home owner buyers who purchase or build a new home that they will occupy as owners. The RHBBG is available to eligible owner-occupiers who purchase a new home or commence building a new home in regional Queensland between particular dates.
3. The FHOG and RHBBG are payable on applications made by home buyers who satisfy certain eligibility criteria and who have entered into an eligible transaction¹ or eligible RHBBG transaction² that has been completed.³ Under s.5(1)(a) of the Grants Act, an eligible transaction for the FHOG includes a contract for the purchase of a new home. Under paragraph 1(a) of the Administrative Direction, an eligible RHBBG transaction includes a contract for the freehold purchase of a new home in regional Queensland if the commencement date is between particular dates.

¹ Defined in s.5 of the Grants Act

² Defined in the Schedule of the Grants Act as an eligible transaction within the meaning of the Administrative Direction

³ Sections 10(1) and 25H(3) of the Grants Act

FHOGA006.2.1

2 of 3

4. Under the Grants Act and the Administrative Direction, a 'new home' is defined as a home that has not been previously occupied or sold as a place of residence, or is a substantially renovated home.⁴
5. Whether a home is sold as a place of residence is based on the essential character of the home. It is not dependent on the reasons or intentions of the parties, or how the home is used, either before or after the sale. However, how a home is used is relevant to whether a home has been occupied as a place of residence.
6. Homes may be built under arrangements commonly referred to as 'builders' terms arrangements'. Under a builders' terms arrangement, a builder contracts to buy land from a developer but is permitted to build a home on the land before settling on the land. As the home forms part of the land at the time the land is transferred from the developer to the builder, this constitutes a sale of the home for the purposes of the Grants Act and the Administrative Direction. Any subsequent sale of the home is ineligible for FHOG or RHBBG because at the time of the subsequent sale the home is no longer a new home for the purposes of the Grants Act or the Administrative Direction.
7. An administrative arrangement approved on 27 November 2020 allows the Commissioner to administer the Grants Act and the Administrative Direction on the basis that the definition of new home extends to homes that have previously been sold under certain builders' terms arrangements in particular circumstances.

Ruling and explanation

8. For an eligible transaction under s.5(1)(a) of the Grants Act and an eligible RHBBG transaction under paragraph 1(a) of the Administrative Direction entered into on and from 1 December 2020, a 'new home' is defined as a home that:
 - (a) has not been previously
 - (i) occupied as a place of residenceor
 - (ii) sold as a place of residence, other than under a builders' terms arrangement
 - or
 - (b) is a substantially renovated home.
9. For the purposes of paragraph 8(a)(ii), a 'builders' terms arrangement' means an arrangement where each of the following apply:
 - (a) A licensed builder enters into a contract with a land developer for the purchase of vacant land (vacant land contract).
 - (b) Under the vacant land contract, the builder is allowed to enter the land and build a home on it.

⁴ Section 6(2) of the Grants Act and paragraph 10 of the Administrative Direction

FHOGA006.2.1

3 of 3

- (c) Construction of the home is completed prior to settlement of the vacant land contract.
10. For the purposes of paragraph 9(c), 'completed' means when the building is ready for occupation as a home and a final inspection certificate under the *Building Act 1975* has been issued for the building.
11. However, a home previously sold as a place of residence under a builders' terms arrangement will not be a new home if the Commissioner is satisfied it forms part of a scheme to circumvent the Grants Act or the Administrative Direction. Eligibility for the grants remains subject to satisfying the requirements in the Grants Act and/or the Administrative Direction.

Date of effect

12. This public ruling takes effect from the date of issue.

Mark Jackson
 Commissioner of State Revenue
 Date of issue: 10 December 2020

References

Public Ruling	Issued	Dates of effect	
		From	To
FHOGA006.2.1	10 December 2020	10 December 2020	Current