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HOUSE OF REPRESENTATIVES

HOMES SAVINGS GRANT AMENDMENT BILL 1979

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Housing and
Construction, the Hon. R.J. Groom, M.P.)

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Introductory notes

This Bill will amend the Principal Act: the Homes Savings Grant Act 1976.

The purpose of this Bill is to give effect to the Government's decision, announced on 24 May 1979, to reintroduce a value limit on qualifying homes, including land, for which Home Savings Grants may be made.

The limit will apply to persons whose prescribed date is after 24 May 1979. The prescribed date is defined in the Principal Act in relation to the date of the contract to buy or build the home, or the date construction of the home commenced as an owner-builder.

The main amendments are in clause 7, which will provide that a grant shall not be made if the value of the home exceeds \$40,000, and in clause 11, which will provide for payment of a reduced grant if the value exceeds \$35,000. The Bill will provide for these amounts to be altered by regulations.

Clause 6 will provide for the value to be determined by the Secretary, having regard to specified matters including the cost of the land, dwelling and improvements. The value will be determined in relation to the interest in the land

at the prescribed date or the date of determination of value, whichever is relevant.

A discretionary power will enable the Secretary to exclude from the value that part of the land or dwelling used for non-domestic purposes. Clause 10 will provide a complementary power to exclude from acceptable savings that part of the savings expended on the non-domestic part of the land or dwelling.

Detailed explanations of each clause of the Bill are appended below.

Clause 1 : Short title

This clause will formally provide, in sub-clause 1, for the citation of the amending Act and, in sub-clause 2, for the title of the Principal Act to be amended.

Clause 2 : Commencement

This clause will provide for the amendments to the Principal Act to be deemed to have come into operation on 25 May 1979, the day following announcement of a value limit for qualifying homes.

Clause 3 : Interpretation

Paragraph (a). This paragraph will provide for a change in the name of the administering department, consequent upon an Administrative Arrangements Order of 5 December 1978, that transferred administration of the Homes Savings Grant Act 1976 from the former Department of Environment, Housing and Community Development to the re-titled Department of Housing and Construction.

Paragraph (b). This paragraph will amend the definition of "rural property" in S13(2) by referring to the business of primary production, and will transfer the definition to the interpretative S4(1). The definition will exclude rural properties carrying on primary production activities for domestic purposes.

Paragraph (c). This paragraph will define the date at which the value is to be determined by reference to S14A(1), for the purposes of sections 19(5), 24A(2), and 31(14).

Clause 4 : Purchase or ownership of land or dwelling-house

Clause 4 will enable the Secretary to treat, as ownership by an applicant, joint ownership by the applicant and a third party of shares in the capital of a company owning land on which is erected a building containing flats or home units, where the shares confer on their holder an entitlement to a right of occupancy of the particular flat or home unit.

The new sub-section 11(5) will enable the Secretary, in an appropriate case, to disregard the third party's interest in the shares for purposes of ownership of an approved interest without, at the same time, disregarding the value of that interest for purposes of the applicant's application for a grant.

Clause 5 : Dwelling-house on rural property

This is a drafting amendment following transfer of the definition of "rural property" to the interpretative S4(1)

of the Act. The effect of the transfer will be to include in the value of a home built on a rural property owned by another person, the value of one-fifth hectare of the land, as provided in S14A(2)(d).

Clause 6 : Value of dwelling-house

Clause 6 will provide a new section 14A to enable the value of a dwelling-house to be determined.

Sub-section 14A(1)

This sub-section will authorise the Secretary to determine the value of the dwelling-house as the value of the relevant interest, as defined in the new sub-section 14A(3), owned or to be owned by the applicant.

Paragraph (a) will require the value to be the value at the prescribed date where the construction was completed on or before that date. This paragraph will apply to purchased homes, other than those purchased from a project builder before construction is completed.

Paragraph (b) will require the value to be the value at the determination date where the construction was completed after the prescribed date but not later than the date the amount of value is determined. Paragraphs (b) and (c) will apply to contract-built and owner-built homes, and homes purchased from project builders before completion.

Paragraph (c) will require the value to be the value at the date the amount of value is determined where construction had not been completed at that date. This will

enable the value of work not yet completed to be taken into account in determining the value.

Sub-section 14A(2)

This sub-section will specify the matters to which the Secretary shall have regard in determining the value of the dwelling-house, and will exclude valuations made for other purposes (for example, as loan security).

Paragraph (a)

Sub-paragraph (i) will require regard to improvements made, being made, or to be made to the relevant land as defined in sub-section 14A(3).

Sub-paragraph (ii) will require regard to any valuation by the Commissioner of Taxation made for the purposes of an application.

Sub-paragraph (iii) will require regard to the cost of the relevant interest as defined in sub-section 14A(3).

Sub-section (iv) will require regard to the cost of construction of a house and of any improvements to the land.

Sub-section (v) will enable other matters to be prescribed by regulations.

Paragraphs (b) and (c)

These paragraphs will enable the Secretary to exclude from the value any part of the dwelling-house, or of the relevant land as defined in S14A(3), that is not, or will not

be, used for domestic purposes. Provision will be made in later Clause 10 to exclude the corresponding proportion of savings expended on the non-domestic element.

Paragraph (d)

Sub-paragraph (i) will deem the area of land on a rural property (as defined in S4(1)) on which the dwelling-house is erected to be one-fifth hectare (half an acre) for the purpose of determining the value of the dwelling-house. The value of the remainder of the land will thereby be excluded from the value.

Sub-paragraph (ii) will provide for the value of land on the rural property to be valued at the unimproved value, and the value will be deemed to be at the value per hectare of the land as determined by the Secretary.

The effect of this paragraph will be to include in the value of the dwelling-house the value of one-fifth hectare of the land at the average unimproved value per fifth hectare of the rural property on which the dwelling-house is erected.

Sub-section 14A(3)

This sub-section will define the relevant land and the relevant interest in the land in relation to the dwelling-house for the purposes of the new sub-sections 14A(1) and 14A(2).

- Definition of "relevant interest"

Paragraph (a) will define the relevant interest, in the case of a house, as the approved interest in the land.

An approved interest in the land is defined in the existing Section 4 as including a freehold estate, an estate for life, a lease (including a lease, licence or right of occupancy from the Crown) giving reasonable security of tenure, and a permission from the owner of rural property for the applicant to occupy a dwelling-house he built on that property.

Paragraph (b) will define the relevant interest in the case of a flat or home unit.

Sub-paragraph (i) will provide for an approved interest to be a relevant interest.

Sub-paragraph (ii) will provide for ownership of shares in the capital of a company, as owner of the land, which entitle the holder to a right of occupancy of the flat or home unit, to be a relevant interest.

- Definition of "relevant land"

Paragraph (a) of the definition will provide for the land on which a house is built, including the curtilage, to be the relevant land.

Paragraph (b) of the definition will provide for the land on which is erected the building containing the flat or home unit (including the curtilage), to be the relevant land.

Clause 7 : Grant not payable unless acceptable savings
held and other conditions satisfied

This clause will provide that a grant shall not be made where the value of the dwelling-house exceeds the maximum qualifying value.

Sub-section 19(5)

This new sub-section will provide that a grant shall not be made if the value exceeds the maximum qualifying value in relation to the date the value was determined. The sub-section, read in conjunction with clause 13, will provide that the maximum qualifying value will apply to applicants whose prescribed date is after 24 May 1979.

Sub-section 19(6)

This new sub-section will provide for the maximum qualifying value to be \$40,000, and will enable the maximum qualifying value to be altered by regulations.

Clauses 8 and 9 : Acceptable savings of sole applicant, or of
joint applicants, to include certain moneys
expended in connection with purchase or
construction of dwelling-house.

Drafting amendments to provide that the limiting effect of Clause 10 on acceptable savings applies to a sole applicant or to joint applicants.

Clause 10 : Reduction of amounts included in acceptable
savings where dwelling-house or land not wholly
for residential use.

Clause 10 will provide that, for the purpose of S23 and S24, the proportionate part of savings expended on the non-domestic part of the land or dwelling-house be excluded from the applicant's acceptable savings. The amount excluded will be proportionate to the respective values of the domestic and the non-domestic parts.

This clause will complement paragraphs (b) and (c) in the new sub-section 14A(2)(clause 6), which will enable the Secretary to exclude from the value that part of the land or dwelling-house used for non-domestic purposes.

Clause 11 : Maximum amount of grant

Clause 11 will provide, in a new sub-section 31(14), a formula that will enable the amount of grant otherwise payable to be calculated where the value of the dwelling-house exceeds the relevant value. A new sub-section 31(15) will provide that the relevant value is \$35,000, and will enable alteration of this amount by regulation.

The effect of the formula will be to reduce the amount of grant otherwise payable, proportionate to the excess of value over \$35,000, so that no grant is payable where the value is equal to or exceeds the maximum qualifying value of \$40,000 provided in the new section 19(6).

Clause 12 : Evidence

Clause 12 is consequential on the change in the administering departments referred to in Clause 3, to provide

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for evidence in Court of documents signed by a person who held the office of Secretary or Regional Director, while that person was an officer of the former Department of Environment, Housing and Community Development.

Clause 13 : Application of amendments

Clause 10 will provide that the amendments will apply to applicants whose prescribed date is later than 24 May 1979.