



First Home Owners Act 1983

Act No. 46 of 1983 as amended

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The text of any of those amendments not in force
on that date is appended in the Notes section

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An Act to encourage and assist persons to purchase or build their own homes

Part I—Preliminary

1 Short title [see Note 1]

This Act may be cited as the *First Home Owners Act 1983*.

2 Commencement [see Note 1]

This Act shall come into operation on the day on which it receives the Royal Assent.

3 Object of Act

The object of this Act is to encourage and assist persons to purchase or build their own homes, and, in the construction and the administration of this Act, regard shall be had to that object.

Part II—Interpretation

4 Interpretation

- (1) In this Act, unless the contrary intention appears:

amount of the prescribed earnings, in relation to a sole applicant or joint applicants, means the amount of the prescribed earnings of the applicant or applicants as defined in section 19.

applicant means a person who, in accordance with subsection 15(2), signs, or is deemed by virtue of a direction under subsection 15(3) to have signed, an application, other than a person in respect of whom a direction under section 5 is in force in relation to that application.

application means an application under section 15.

approved interest means:

- (a) an estate in fee simple;
- (b) an interest as purchaser of an estate in fee simple from the Crown in right of a State or of the Northern Territory where payment of the purchase price is to be made by instalments over a period of years;
- (c) an estate for life approved by the Secretary for the purposes of this Act;
- (d) a lease for a term of years of which more than 15 years are unexpired when the lease is acquired, being a lease that is registered in an official register, kept under the law of a State or internal Territory, in which dealings in land are registered;
- (e) a licence or right of occupancy from the Crown in right of the Commonwealth, of a State or of the Northern Territory if the Secretary is satisfied that the licence or right of occupancy gives reasonable security of tenure to the licensee or holder of the right;
- (f) an interest of the kind referred to in section 11; or
- (g) any other interest declared by the regulations to be an approved interest for the purposes of this Act.

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assistance means financial assistance under this Act.

joint applicant means any one of 2 or more persons who are applicants in respect of the same application.

lease includes sub-lease.

officer means a person exercising powers, or performing duties or functions, under or in relation to this Act.

prescribed Act means the *Homes Savings Grant Act 1964*, the *Homes Savings Grant Act 1976* or the *Home Deposit Assistance Act 1982*.

prescribed date, in relation to a sole applicant who has, or joint applicants one of whom has, or 2 or more of whom together have:

- (a) entered into a contract of a kind referred to in paragraph 14(1)(a) or (b); or
- (b) commenced the construction of a dwelling as referred to in paragraph 14(1)(c) (whether or not the construction has been completed);

means:

- (c) where paragraph (a) applies—the date of the contract or, if a date has been determined under subsection 14(7), that date; or
- (d) where paragraph (b) applies—the date on which the construction commenced.

prescribed person, in relation to a dwelling, means a person who is a prescribed person in relation to that dwelling by virtue of subsection 14(1), other than a person in respect of whom a direction under section 5 is in force in relation to that dwelling.

rural property means land used wholly or substantially for carrying on the business of primary production.

sole applicant means an applicant other than a joint applicant.

- (2) A dwelling shall not be taken to be a dwelling for the purposes of this Act unless the Secretary is satisfied that:

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- (a) the facilities it provides are such that it is reasonable to regard it as the principal place of residence of a person or persons; and
- (b) if any building standards are applicable to it—it complies with those standards.

5 Person not intending to reside in dwelling

Where a person is a prescribed person in relation to a dwelling, and the Secretary is satisfied that the person has not resided in the dwelling as his or her principal place of residence and does not intend so to reside within a reasonable time, the Secretary shall direct that, for the purposes of this Act, the person is to be deemed not to be a prescribed person in relation to the dwelling.

6 References to spouse

- (1) A reference in this Act, in relation to a date, to the spouse of a person shall be read as a reference to:
 - (a) a person who, on that date, was legally married to the first-mentioned person, except where, by virtue of a direction of the Secretary under subsection (2), the persons are to be treated, for the purposes of this paragraph, as if they were not spouses on that date; or
 - (b) a person who, on that date, was living with the first-mentioned person as husband or wife on a *bona fide* domestic basis although not legally married to that person.
- (2) Where the Secretary is satisfied that, on a particular date, persons who were legally married to each other were living apart and had no intention of resuming co-habitation, the Secretary may direct that, for the purposes of paragraph (1)(a), they shall be treated as persons who were not spouses on that date.

7 Commencement and completion of construction of dwelling

- (1) For the purposes of this Act:
 - (a) the construction of a dwelling shall be taken to have commenced on:

- (i) the day on which work commenced on the laying of the foundations of the dwelling; or
 - (ii) if the Secretary determines that, having regard to all the circumstances, the construction of the dwelling should be treated as having commenced on a later day—that later day; and
 - (b) completion of the construction of a partly constructed dwelling shall be taken to have commenced on such date as the Secretary determines, having regard to all the circumstances, should be treated as the date on which that construction commenced to be completed.
- (2) Unless the contrary intention appears, a reference in this Act to the construction of a dwelling by a person (whether through a building-contractor or not) shall, if the construction of the dwelling was commenced by another person (whether through a building-contractor or not), be read as a reference to the completion of the construction of the dwelling by the first-mentioned person.

8 Dwelling consisting of part of a building

- (1) A reference in this Act to the construction of a dwelling shall be read, in the case of a dwelling that is, or is to be, a part of a building, as a reference to the construction of that building.
- (2) A reference in this Act to the land on which a dwelling is, or is to be, erected shall be read, in the case of a dwelling that is, or is to be, a part of a building, as a reference to the land on which that building is, or is to be, erected.

9 Purchase or ownership of land or dwelling

- (1) A reference in this Act to purchase, or to ownership, in relation to land or an undivided share in land, shall be read as a reference to purchase or ownership, as the case may be, otherwise than as trustee, of an approved interest in the land or in the undivided share, as the case may be.

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- (2) A reference in this Act to purchase, or to ownership, in relation to a dwelling, shall be read as a reference to purchase or ownership, as the case may be, otherwise than as trustee, of:
- (a) whether or not the dwelling is a dwelling of a kind referred to in paragraph (b)—the land on which the dwelling is, or is to be, erected; or
 - (b) where the dwelling is, or is to be, a part of a building or is, or is to be, one of 2 or more dwellings separately erected on a single parcel of land:
 - (i) an approved interest in the dwelling in pursuance of a law of a State or internal Territory that enables the holding or enjoyment by different persons of proprietary rights in respect of different parts of that building or of different buildings erected on that parcel of land, as the case may be;
 - (ii) shares in the capital of a body corporate that is the owner of the land on which the dwelling is, or is to be, erected, being shares that entitle the holder to a right of occupancy (whether under a lease or otherwise) in respect of the dwelling, where the Secretary is satisfied, having regard to such matters as the Secretary considers relevant, that the value of the holder's interest in the shares is not less than the value of the holder's interest in the dwelling; or
 - (iii) an undivided share in the land on which the dwelling is, or is to be, erected.

10 Purchase of home to be moved to other land

Where a person has, or persons together have, entered into a contract for the purchase of a structure for removal to land situated in Australia, being a structure intended for use as a dwelling on that land, then, for the purposes of this Act:

- (a) that contract and any other contract relating to the removal of that structure to, or its siting on, that land shall be deemed to be a contract for the construction by a building-contractor of a dwelling on that land; and
- (b) construction under that last-mentioned contract shall be deemed to have commenced on the date on which the contract for the purchase of the structure was entered into.

11 Dwelling on rural property

Where:

- (a) on or after 1 October 1983, a person has, or persons together have:
 - (i) entered into a contract for the construction by a building-contractor, on land situated in Australia, of a dwelling the construction of which commenced on or after that date; or
 - (ii) commenced to construct a dwelling on land situated in Australia, otherwise than through a building-contractor; and
- (b) the Secretary is satisfied that the land forms part of a rural property owned by another person (whether that other person holds the land as a trustee or not) who has given permission to the first-mentioned person or persons to occupy the dwelling when completed;

then, for the purposes of this Act, that permission shall be deemed to create an interest in the land in favour of that first-mentioned person or those first-mentioned persons, and the first-mentioned person or those first-mentioned persons shall be deemed to be the owner or owners of that interest.

12 Trusts etc.

(1) Where:

- (a) a person holds an interest in land, or in a dwelling, in trust for any other person or persons (in this subsection referred to as the *beneficiary* or *beneficiaries*, as the case may be); or
- (b) a person has, alone or together with any other person or persons, entered into a contract for the purchase of land or a dwelling, and an interest in the land or dwelling is to be held by the first-mentioned person in trust for any other person or persons (in this subsection also referred to as the *beneficiary* or the *beneficiaries*, as the case may be), not being any of the persons who so entered into the contract;

and the Secretary is satisfied that the beneficiary or beneficiaries will become the owner or co-owners of the interest referred to in paragraph (a) or (b), as the case may be, the beneficiary or beneficiaries shall, for the purposes of this Act, be deemed to be

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the owner or co-owners of the interest referred to in paragraph (a) or to have entered into the contract for the purchase of the land or dwelling, as the case may be.

(2) Where:

(a) a person has, alone or together with any other person or persons, entered into a contract for the construction by a building-contractor of a dwelling, and the Secretary is satisfied that an interest in the dwelling will be held by the person as trustee for any other person or persons (in this subsection referred to as the **beneficiary** or the **beneficiaries**, as the case may be), not being any of the persons who so entered into the contract; or

(b) a person has, alone or together with any other person or persons, at the request of any other person or persons, entered into a contract, otherwise than as an agent of the person or persons who made the request, for the construction by a building-contractor of a dwelling, and the Secretary is satisfied that an interest in the dwelling will be owned by the person or persons who made the request;

the beneficiary or beneficiaries, or the person or persons who made the request, as the case may be, shall, for the purposes of this Act, be deemed to have entered into the contract.

(3) A person deemed by virtue of this section to have entered into a contract is not deemed to have done so to the exclusion of any person who actually entered into the contract.

(4) Section 9 has effect in relation to paragraph (1)(b) of this section as if there were omitted from subsection 9(2) the words “, otherwise than as trustee,”.

13 Applicants who have dependent children

A person is, for the purposes of this Act, to be treated as being a dependent child of an applicant if, and only if:

(a) the person:

(i) was born during the period commencing on the date that is the prescribed date in relation to the applicant and ending at the expiration of the first anniversary of that date; or

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- (ii) was under the age of 18 years on that date; and
- (b) the person has at any time during that period been in the custody, care and control of, and ordinarily resident with, the applicant.

Part III—Financial assistance

Division 1—Application for, and payment of, assistance

14 Persons who, subject to section 15, may apply

- (1) Where, on or after 1 October 1983, a person (in this section referred to as the *home acquirer*) has, or 2 or more persons (in this section referred to as the *home acquirers*) together have:
- (a) entered into a contract for the purchase of a dwelling situated in Australia;
 - (b) entered into a contract for the construction by a building-contractor of a dwelling on land situated in Australia, being a dwelling that the Secretary is satisfied will be owned:
 - (i) by the home acquirer or by any of the home acquirers, as the case may be;
 - (ii) by a person who, on the date of the contract, was the spouse of the home acquirer or of any of the home acquirers, as the case may be; or
 - (iii) jointly by 2 or more persons, each of whom is a person to whom subparagraph (i) or (ii) applies;other than a dwelling the construction of which was commenced before 1 October 1983; or
 - (c) commenced the construction, otherwise than through a building-contractor, of a dwelling on land situated in Australia, being a dwelling that the Secretary is satisfied will be owned:
 - (i) by the home acquirer or by any of the home acquirers, as the case may be;
 - (ii) by a person who, on the date on which the construction commenced, was the spouse of the home acquirer or of any of the home acquirers, as the case may be; or
 - (iii) jointly by 2 or more persons, each of whom is a person to whom subparagraph (i) or (ii) applies;and the Secretary is satisfied that the home acquirer is or will be, or the home acquirers are or will be, as the case may be, entitled to

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an exclusive right of occupancy of the dwelling, then, subject to section 5:

- (d) the home acquirer or each of the home acquirers, as the case may be; and
- (e) any person who, on the date of the contract, or the date on which construction commenced, as the case may be, was the spouse of the home acquirer or of any of the home acquirers, as the case may be;

is, for the purposes of this Act, a prescribed person in relation to the dwelling.

- (2) Where a person is a prescribed person in relation to a dwelling and:
 - (a) the Secretary is satisfied that neither a grant under a prescribed Act nor a payment of assistance under this Act has been made to the prescribed person, either alone or jointly with another person; and
 - (b) before the date of the contract, or the date on which construction commenced, as the case may be, the prescribed person:
 - (i) had not owned a dwelling in Australia; and
 - (ii) had not been a party to a contract (other than a contract that was discharged, otherwise than by performance of the contract, before the expiration of 12 months after it was entered into) for the purchase of a dwelling in Australia, being a contract that provided for payment of the whole or part of the purchase price by instalments; either alone or together with another person or other persons;the prescribed person is, for the purposes of section 15, a person to whom this subsection applies.
- (3) In paragraph (2)(a), the reference to a grant under a prescribed Act or to payment of assistance under this Act does not include a reference to a grant or a payment of assistance, as the case may be, that should not have been made or that otherwise became recoverable by the Commonwealth.
- (4) For the purposes of making a decision under paragraph (2)(a), the Secretary may be satisfied by having regard to such records

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(however compiled, recorded or stored) as the Secretary thinks appropriate.

- (5) For the purposes of paragraph (2)(b), a person or persons shall be taken not to have owned a dwelling, or been a party or parties to a contract for the purchase of a dwelling, during any period during which the dwelling was not, or was not intended to be, as the case may be, the principal place of residence of the person or persons.
- (7) For the purposes of this Act, the Secretary may, subject to subsection (8), treat a person or persons as having entered into a contract on a date determined by the Secretary, being a date:
 - (a) in the case of a contract for the purchase of a dwelling (other than a contract that provides for payment of the whole or part of the purchase price by instalments)—not earlier than 3 months after the date of the contract and not later than the day on which the vendor completes performance of the contract;
 - (b) in the case of a contract for the purchase of a dwelling, being a contract that provides for payment of the whole or part of the purchase price by instalments—not earlier than 3 months after, and not later than 12 months after, the date of the contract; or
 - (c) in the case of a contract for the construction of a dwelling by a building contractor—not earlier than 6 months after the date of the contract and not later than:
 - (i) the day on which a certificate of occupancy (however described) is issued in relation to the dwelling by a local government authority; or
 - (ii) the day on which the applicant takes possession of the dwelling;whichever happens first.
- (8) The Secretary shall not make a determination under subsection (7) in relation to a contract unless the Secretary is satisfied:
 - (a) that it is appropriate to make the determination because of unusual circumstances relating to the contract and the manner of its performance; and
 - (b) that the making of the determination would be to the advantage of the person or persons affected.

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- (8A) Where the Secretary is satisfied that:
- (a) on the date on which a person entered into a contract or commenced the construction of a dwelling as mentioned in paragraph (1)(a), (b) or (c), the person and another person intended to become spouses of each other; and
 - (b) that other person has consented to be treated as the spouse of the first-mentioned person for the purposes of this section;
- the Secretary may direct that, for the purposes of this section, the other person shall be taken to have been the spouse of the first-mentioned person on that date.
- (8B) In relation to the requirement set out in paragraph (8A)(a), the Secretary may have regard to such matters as the Secretary thinks appropriate.
- (9) In this section, *person* means a natural person.

15 Applications

- (1) Where the person, or each person, who is a prescribed person in relation to a dwelling is a person to whom subsection 14(2) applies in relation to the dwelling, an application for assistance in respect of the dwelling may be made in accordance with this section.
- (2) An application for assistance in respect of a dwelling:
 - (a) shall be in writing in accordance with a form made available by the Secretary;
 - (b) subject to subsection (3), shall be signed by the person, or by each person, who is a person to whom subsection 14(2) applies in relation to the dwelling; and
 - (c) shall be furnished to the Secretary.
- (3) Where:
 - (a) an application that is required to be signed by 2 or more persons has been signed by any, but not all, of those persons; and
 - (b) the Secretary is satisfied, in respect of a person who has not signed the application as mentioned in paragraph (a), that:
 - (i) the person is unable to sign the application because of physical or mental incapacity, absence or any other reason that the Secretary considers sufficient;

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- (ii) the person has refused to sign the application;
 - (iii) the whereabouts of the person are not known; or
 - (iv) the person has died;
- the Secretary may, if he or she considers that the person should be treated as an applicant, direct that the person is to be deemed to have signed the application.
- (4) An applicant for assistance shall furnish to the Secretary such declarations and other documents as the Secretary requires.

16 Financial assistance

- (1) Subject to this Act, the Secretary may pay, on behalf of the Commonwealth, financial assistance in accordance with this Act in respect of a dwelling to the applicant or applicants, as the case may be, for the assistance.
- (2) Payments under subsection (1) may be made at such times, and in such manner, as the Secretary thinks fit, having regard to the amount of money from time to time available for the purpose.
- (3) Despite any other provision of this Act, financial assistance is not payable to a sole applicant or to joint applicants if the prescribed date in relation to the applicant or applicants is later than 21 August 1990.

17 Assistance not payable unless certain conditions satisfied

- (1) Assistance shall not be paid in respect of a dwelling in relation to which paragraph 14(1)(c) applies unless the dwelling has been completed or the Secretary is satisfied that substantial progress on the construction:
 - (a) has been made; or
 - (b) is likely to be made within a reasonable time.
- (2) Assistance shall not be paid in respect of a dwelling unless the Secretary is satisfied that the applicant has or will have, or the applicants have or will have, adequate financial resources (including resources obtained or to be obtained by borrowing) to perform in relation to the dwelling the contract referred to in

Section 17A

paragraph 14(1)(a) or (b), or to complete the construction referred to in paragraph 14(1)(c), as the case may be.

- (3) Subsection (2) does not apply in relation to a contract for the purchase of a dwelling, being a contract that provides for the payment of the whole or part of the purchase price by instalments, if the Secretary is satisfied that it would be unreasonable for that subsection to apply having regard to all the circumstances.
- (4) Assistance shall not be paid to a sole applicant or to joint applicants unless the sole applicant or at least one of the joint applicants has had his or her principal place of residence in Australia during the period of 12 months immediately preceding his or her prescribed date and is:
 - (a) an Australian citizen; or
 - (b) a person who is, within the meaning of the *Migration Act 1958*, the holder of a valid permanent entry permit; or
 - (c) a person who has been granted, or who is included in, a return endorsement or a resident return visa in force under the *Migration Act 1958*; or
 - (d) a person who is, for the purposes of the *Migration Act 1958*, an exempt non-citizen, being a person who the Secretary is satisfied is likely to remain permanently in Australia.

17A Time limit for applications

Financial assistance is not payable in respect of a dwelling unless the application for assistance is made no later than 30 June 1991.

17B Provision of tax file numbers

- (1) Subject to section 17C, assistance is not payable to an applicant or applicants for the assistance where:
 - (a) the Secretary:
 - (i) in the case of a sole applicant—requires the applicant to give the Secretary, in writing, a statement of the applicant's tax file number; and
 - (ii) in the case of joint applicants—requires the applicants to give the Secretary, in writing, statements of each applicant's tax file number; and

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- (b) the requirement is not complied with within 60 days.
- (2) Subsection (1) is satisfied in relation to a person's tax file number if:
 - (a) the Secretary is given a declaration by the person in a form approved by the Secretary; and
 - (b) the declaration states either:
 - (i) that the person has a tax file number but does not know what it is and has asked the Commissioner of Taxation to inform him or her of the number; or
 - (ii) that an application by the person for a tax file number is pending; and
 - (c) where subparagraph (b)(i) applies—the person has given the Secretary a document authorising the Commissioner of Taxation to tell the Secretary:
 - (i) whether the person has a tax file number; and
 - (ii) if so—the tax file number; and
 - (d) where subparagraph (b)(ii) applies—the person has given the Secretary a document authorising the Commissioner to tell the Secretary:
 - (i) if a tax file number is issued to the person—the tax file number; or
 - (ii) if the application is refused—that the application has been refused; or
 - (iii) if the application is withdrawn—that the application has been withdrawn; and
 - (e) the Commissioner of Taxation has not told the Secretary that the person has no tax file number or that an application by the person for a tax file number has been refused; and
 - (f) where the declaration states that an application by the person for a tax file number is pending—the application has not been withdrawn.
- (3) In this section, *employment declaration* and *tax file number* have the same meanings as in Part VA of the *Income Tax Assessment Act 1936*.

17C Late provision of tax file numbers

- (1) If:
 - (a) a requirement is made of an applicant or applicants under paragraph 17B(1)(a); and
 - (b) the requirement is complied with, but not within the 60 days referred to in paragraph 17B(1)(b);section 17B ceases to apply in relation to the payment of any instalments of assistance to the applicant or applicants during or after the month in which the requirement was complied with.
- (2) Nothing in subsection (1) affects the application of section 17B in relation to payments of assistance to the applicant or applicants prior to the month in which the requirement was complied with.

Division 2—Prescribed earnings

18 Interpretation

- (1) In this Division:

Assessment Act means the *Income Tax Assessment Act 1936*.

current year of income, in relation to an applicant, means the year of income that includes the prescribed date in relation to the applicant.

preceding year of income, in relation to an applicant, means the year of income next preceding the current year of income.

relevant year of income, in relation to an applicant, except as provided in section 22, means the preceding year of income.

succeeding year of income, in relation to an applicant, means the year of income next succeeding the current year of income.

- (2) A reference in this Division to a certificate stating the amount of the taxable income of a person for a year of income shall be read as a reference to a notice, certificate or other document (including a notice of assessment or amended assessment) issued by or on behalf of the Commissioner, whether for the purposes of the Assessment Act or of this Act, stating, or including a statement of, the amount of the taxable income of the person for the year of income.
- (3) Except so far as the contrary intention appears, an expression used in this Division and in the Assessment Act has the same meaning in this Division as in that Act.

19 Prescribed earnings

- (1) For the purposes of this Act, the amount of the prescribed earnings of a sole applicant or of joint applicants is:
- (a) in the case of a sole applicant—the amount of the taxable income of the applicant for the relevant year of income; or

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- (b) in the case of joint applicants—the sum of the amounts of the taxable income of each applicant for the relevant year of income in relation to that applicant.
- (2) For the purposes of subsection (1), in relation to an applicant in relation to whom a direction is in force under section 22, the amount of the taxable income of the applicant for the relevant year of income is that amount as reduced in accordance with the regulations.

20 Assessment etc. of taxable income

- (1) For the purposes of ascertaining the amount of the taxable income of an applicant for a year of income, the succeeding provisions of this section apply.
- (2) The applicant shall furnish to the Secretary:
 - (a) except where paragraph (b) applies—a certificate stating the amount of the applicant's taxable income for the year of income or, if 2 or more such certificates have been issued, the later or latest of those certificates; or
 - (b) if the Secretary, in his or her discretion, so directs—a statement in writing, in accordance with a form made available by the Secretary, of the amount of the applicant's taxable income for the year of income and of such other particulars as are required by the form.
- (3) Notwithstanding that an applicant has furnished a statement in relation to the year of income under paragraph (2)(b), the applicant shall, if the Secretary, in his or her discretion, so directs, furnish to the Secretary a certificate stating the amount of the applicant's taxable income for the year of income.
- (4) The Secretary may request the Commissioner to furnish to the Secretary a certificate stating the amount of the taxable income of the applicant for the year of income.
- (5) Where the applicant has furnished, in pursuance of the Assessment Act, a return in respect of income derived by the applicant during the year of income, nothing in this Division shall be taken to require the application to be dealt with by the Secretary before a

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certificate is issued to the applicant stating the amount of the applicant's taxable income for the year of income.

21 Amount of taxable income

For the purposes of this Division, the amount of the taxable income of an applicant for a year of income is that amount:

- (a) as stated in a certificate or, where 2 or more certificates have been issued, in the later or latest of those certificates; or
- (b) if no such certificate has been issued—as determined by the Secretary.

22 Relevant year of income in certain cases

- (1) Where an applicant, by notice in writing furnished to the Secretary, requests the Secretary to give a direction under this subsection and the Secretary is satisfied that:
 - (a) the applicant is an eligible person in respect of the preceding year of income;
 - (b) the estimated amount, or the actual amount, of the taxable income of the applicant for the current year of income is less than the amount of the applicant's taxable income for the preceding year of income; and
 - (c) the applicant will be advantaged by the making of such a direction;the Secretary shall direct that the relevant year of income in relation to the applicant is the current year of income.
- (2) Where a direction is given under subsection (1) in relation to an applicant on the basis of an estimated amount of taxable income and the actual amount is greater than that estimated amount, the relevant year of income in relation to the applicant is the current year of income or the preceding year of income, whichever is of greater advantage to the applicant.
- (3) Where the Secretary is not satisfied that an applicant is an eligible person in respect of the preceding year of income, but is satisfied that the applicant is an eligible person in respect of the current year of income, the Secretary shall direct that the relevant year of income in relation to the applicant is the current year of income.

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- (3A) Where, in respect of each of the following years, namely, the preceding year of income and the current year of income, the Secretary is not satisfied that an applicant is an eligible person, but the Secretary is satisfied that the applicant is an eligible person in respect of the succeeding year of income—the Secretary shall direct that the relevant year of income in relation to the applicant is the succeeding year of income.
- (3B) Where, in respect of each of the following years, namely, the preceding year of income, the current year of income and the succeeding year of income, the Secretary is not satisfied that an applicant is an eligible person:
- (a) if the estimated amount, or the actual amount, of the taxable income of the applicant for the current year of income or the succeeding year of income is less than the amount of his or her taxable income for the preceding year of income—the Secretary shall direct that the relevant year of income in relation to the applicant is the current year of income or the succeeding year of income, whichever of those years is the year for which the applicant's taxable income is the greater amount; or
 - (b) in any other case—the Secretary shall direct that the relevant year of income in relation to the applicant is the preceding year of income, the current year of income or the succeeding year of income, whichever of those years is the year for which the applicant's taxable income is the greatest amount.
- (4) Where a direction is given under subsection (3), (3A) or (3B) in relation to an applicant on the basis of an estimated amount of taxable income and the actual amount is greater or less than that estimated amount, the Secretary shall revoke or vary the direction accordingly.
- (5) In this section:

eligible person, in relation to a year of income, means a person who, immediately before the first day of the year of income, was an Australian citizen or a person referred to in paragraph 17(4)(b), (c) or (d).

Division 3—Payment of assistance

23 Payment of assistance

- (1) Subject to this Act, assistance to a sole applicant or to joint applicants shall be paid in accordance with the regulations.
- (2) Subject to subsection (4), where the amount of the prescribed earnings of a sole applicant or of joint applicants exceeds the lower relevant amount but is less than the higher relevant amount, the amount of any payment of assistance to be made to the applicant or each of the applicants, as the case may be, is the amount ascertained in accordance with the formula:

$$\frac{A(B - C)}{(B - D)}$$

where:

A is the amount that, but for this subsection and subsection (4), would be the amount of the payment;

B is the higher relevant amount;

C is the amount of the prescribed earnings; and

D is the lower relevant amount.

- (3) Assistance shall not be paid to a sole applicant or to joint applicants if the amount of the prescribed earnings of the applicant or applicants, as the case may be, is equal to, or exceeds, the higher relevant amount.
- (4) A payment of an amount of assistance shall not be made if the amount is less than \$10.
- (4A) Where:
 - (a) but for this subsection, an amount of assistance would be payable to a sole applicant or to joint applicants (in this subsection referred to as the **relevant person** or **relevant persons**, as the case may be);
 - (b) an amount (in this section referred to as a **prescribed amount**) has been paid by the Commonwealth to the relevant person, or to any of the relevant persons, as the case may be, being an amount of:

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- (i) a grant made under a prescribed Act; or
 - (ii) assistance paid under this Act in relation to a previous application; and
 - (c) the prescribed amount should not have been paid, or otherwise became recoverable by the Commonwealth; the amount of assistance shall be reduced by so much of the previous amount as has not been repaid to or recovered by the Commonwealth or set-off under a previous application of this subsection.
- (4B) Notwithstanding anything in a prescribed Act or in this Act, so much of a prescribed amount as has been set-off under subsection (4A) ceases to be recoverable by the Commonwealth.
- (5) In this section:

higher relevant amount is the amount ascertained in accordance with the regulations.

lower relevant amount is the amount ascertained in accordance with the regulations.

Part IV—Administration

24 Delegation

- (1) The Secretary may, either generally or as otherwise provided by the instrument of delegation, by instrument in writing, delegate to an officer of the Department all or any of his or her powers under this Act, other than this power of delegation.
- (2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Secretary.
- (3) A delegation under this section does not prevent the exercise of a power by the Secretary.

25 Interpretation

In sections 26 and 27, a reference to a decision of the Secretary is a reference to:

- (a) a determination, direction, decision or approval of the Secretary under this Act;
- (b) a writing-off, waiver, deferral or allowance under section 37A; or
- (c) a refusal to make a decision referred to in paragraph (a) or (b).

26 Making of decisions

- (1) A decision of the Secretary shall be by instrument in writing.
- (2) Notice of a decision of the Secretary shall be served by post on the applicant, or on each of the applicants, as the case may be, at the address of that person last known to the Secretary.

27 Review of decisions

- (1) If at any time it appears to the Secretary that sufficient reason exists for reconsidering a decision of the Secretary, he or she may reconsider the decision and may affirm, revoke or vary it.
- (1A) Subsection (1) ceases to have effect on 31 August 1995.
- (2) Subject to subsection (2A), a person whose interests are affected by a decision of the Secretary, other than a decision under section 20, may request the Secretary to reconsider the decision.
- (2A) A request under subsection (2) must be in writing and furnished to the Secretary not later than:
 - (a) the end of the period of 28 days after the day on which notice of the decision was served on the person making the request; or
 - (b) 31 August 1995;whichever is the later.
- (3) Upon receipt of a request under subsection (2), the Secretary shall reconsider the decision, and may affirm, revoke or vary it.
- (4) Where, under subsection (3), the Secretary affirms, revokes or varies a decision, he or she shall, by notice in writing served by post on the applicant, or on each of the applicants, as the case may be, at the address of that person last known to the Secretary, inform that person of the results of the reconsideration of the decision, set out the findings on material questions of fact, refer to the evidence or other material on which those findings were based and give the reasons for affirming, revoking or varying the decision.
- (5) Applications may be made to the Administrative Appeals Tribunal for review of a decision made under subsection (3).
- (6) In subsection (5), **decision** has the same meaning as in the *Administrative Appeals Tribunal Act 1975*.

Section 28

28 Statements to accompany notification of decisions

- (1) Notice under subsection 26(2) of a decision (other than a decision under subsection 27(3)) shall include a statement to the effect that a person affected by the decision:
 - (a) may, if the person is dissatisfied with the decision, request a reconsideration of the decision in accordance with subsections 27(2) and (2A); and
 - (b) may, subject to the *Administrative Appeals Tribunal Act 1975*, if the person is dissatisfied with a decision made by the Secretary upon that reconsideration affirming, revoking or varying the first-mentioned decision, make application to the Administrative Appeals Tribunal for review of the decision so made.
- (2) Notice under subsection 27(4) of a decision made under subsection 27(3) shall include a statement to the effect that a person affected by the decision may, if dissatisfied with the decision, make application to the Administrative Appeals Tribunal for review of the decision.

29 Officers to observe secrecy

- (1) A person who is or has been an officer shall not, directly or indirectly, except for the purposes of this Act, make a record of, or divulge or communicate to any person, any information with respect to the affairs of another person acquired by the first-mentioned person in the exercise of powers, or the performance of duties or functions, under this Act.

Penalty: \$2,000 or imprisonment for 12 months, or both.

- (2) Notwithstanding anything contained in subsection (1), an officer may:
 - (a) if the Minister or the Secretary certifies that it is necessary in the public interest that any information acquired by the officer in the exercise of powers, or the performance of duties or functions, under this Act should be divulged, divulge that information to such person as the Minister or the Secretary directs;
 - (b) divulge any such information to an authority or person if:

- (i) the authority or person is a prescribed authority or person for the purpose of this paragraph;
 - (ii) the information is information of a kind that may, in accordance with regulations for the purpose of this paragraph, be divulged to the authority or person; and
 - (iii) any other conditions prescribed for the purpose of this paragraph have been satisfied;
- (c) divulge any such information to a person who, in the opinion of the Secretary, is expressly or impliedly authorized by the person to whom the information relates to obtain it.
- (3) An authority to which, or person to whom, information is divulged under subsection (2), and any person under the control of that authority or person is, in respect of that information, subject to obligations and liabilities under subsection (1) as if the authority or person were a person exercising powers, or performing duties or functions, under this Act and had acquired the information in the exercise of those powers or the performance of those duties or functions.

30 Information as to applicants

- (1) Where the Secretary has reason to believe that a person is in possession of any information in relation to any matter that might affect the payment of assistance to any other person, the Secretary may, by notice in writing served by post on the first-mentioned person at the address of the person last known to the Secretary, require the person to furnish a confidential report relating to that matter within 14 days after the notice is served.
- (2) A person on whom a notice is so served shall not:
 - (a) without lawful excuse, refuse or fail to comply with the notice; or
 - (b) furnish a report in response to the notice that, to the person's knowledge, is false or misleading in a material particular.

Penalty: \$1,000 or imprisonment for 6 months.

31 Powers as to taking of evidence and production of documents

- (1) The Secretary may, for the purposes of this Act:

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- (a) summon witnesses;
 - (b) receive evidence on oath or affirmation; and
 - (c) require the production of documents.
- (2) A person who has been summoned to appear before the Secretary shall not, without lawful excuse, after tender of a reasonable amount to defray expenses, fail to appear in obedience to the summons.
- (3) A person, whether summoned or not, who appears before the Secretary shall not, without lawful excuse:
 - (a) refuse to be sworn as a witness or to make an affirmation;
 - (b) fail to answer any question that the person is lawfully required to answer; or
 - (c) fail to produce any document that the person is lawfully required to produce.

Penalty: \$1,000.

32 Indemnity to certain persons

Nothing contained in any law of a State or Territory prevents a person from furnishing any information, or making any books, documents or papers available, to the Secretary or to an officer for the purposes of this Act.

Part V—Miscellaneous

33 Advances

- (1) Where:
 - (a) the Secretary is satisfied that:
 - (i) the amount of the prescribed earnings of a sole applicant or of joint applicants has not been ascertained in accordance with Division 2 of Part III at the time of the making of the application and cannot be so ascertained within a reasonable period after that time; and
 - (ii) the applicant has, or applicants have, taken all reasonable steps to supply the information necessary to ascertain that amount; and
 - (b) the Secretary estimates, from such information in his or her possession as he or she considers sufficient, that an amount of assistance will be payable to the applicant or applicants; he or she may make an advance on account of the assistance of an amount not exceeding the amount so estimated.
- (2) Part IV and this Part (except section 37) apply in relation to an advance in like manner as they apply in relation to assistance.

34 Money out of which assistance is payable

- (1) Subject to subsection (2), assistance payable after the commencement of this section and before 1 July 1985 is payable out of the Consolidated Revenue Fund, which is appropriated accordingly.
- (2) Assistance payable under subsection (1) shall not exceed, in the aggregate, an amount that, together with the total amount of assistance paid on and after 1 July 1984 and before the commencement of this section, is equal to \$290,000,000.
- (3) Assistance payable after 30 June 1985 is payable out of money appropriated by the Parliament for the purpose.

Section 35

35 Failure to complete purchase or construction

- (1) This section applies where assistance has been paid in respect of a dwelling whose purchase or construction had not been completed on the date on which the application was made.
 - (2) Where:
 - (a) in the case of a dwelling the purchase of which had not been completed on the date on which the application was made:
 - (i) the purchase of the dwelling is not completed within 3 months after the date specified in the application as the date on which it was expected that the purchase would be completed or, if no date was so specified, within 3 months after the date of the first payment of assistance; or
 - (ii) the contract for the purchase of the dwelling is discharged otherwise than by performance of the contract; or
 - (b) in the case of a dwelling the construction of which had not been completed on the date on which the application was made:
 - (i) the construction of the dwelling is not completed within 6 months after the date specified in the application as the date on which it was expected that the construction would be completed or, if no date was so specified, within 6 months after the date of the first payment of assistance;
 - (ii) if the dwelling was being, or was to be, constructed by a building-contractor—the contract for the construction of the dwelling is discharged otherwise than by performance of the contract; or
 - (iii) before the expiration of 12 months after the prescribed date, the applicant, in the case of a sole applicant, does not become the owner, or none of the applicants, in the case of joint applicants, becomes the owner, of the dwelling;
- and the Secretary is not forthwith notified in writing of the fact, then the sole applicant, or each of the joint applicants, as the case may be, is guilty of an offence punishable, upon conviction, by a

Section 36

fine not exceeding \$1,000 or imprisonment for a period not exceeding 6 months, or both.

36 Notification of amount of taxable income

- (1) Where:
- (a) an applicant has furnished to the Secretary a certificate, or a statement under paragraph 20(2)(b), stating the amount of his or her taxable income for a year of income; and
 - (b) he or she subsequently receives a certificate, or a further certificate, as the case may be, stating the amount of his or her taxable income for the year of income and the amount so stated is greater than the amount referred to in paragraph (a);
- he or she shall forthwith furnish the certificate to the Secretary or, if he or she is unable to do so, furnish to the Secretary, in lieu of that certificate, a fresh certificate stating the amount of his or her taxable income for the year of income.

Penalty: \$1,000 or imprisonment for 6 months, or both.

- (2) An expression used in this section and in Division 2 of Part III has the same meaning in this section as in that Division.

37 Adjustment of payments of assistance

- (1) Where an amount of assistance has been paid to an applicant or applicants and the whole or part of the amount should not have been paid, the whole, or that part, as the case may be, of the amount is referred to in this section as an amount overpaid, and the succeeding provisions of this section apply.
- (2) If further assistance is payable, but not paid, to the applicant or applicants, the Secretary may recover the amount overpaid:
- (a) where only one amount of assistance is so payable—by deduction from that amount;
 - (b) where 2 or more amounts of assistance are so payable—by deduction of equal amounts from the amounts so payable.
- (3) So much of the amount overpaid as exceeds the total amount (if any) of further assistance payable, but not paid, to the applicant or applicants is a debt due to the Commonwealth by the applicant, or

Section 37

by the applicants jointly and severally, as the case may be, and may at any time be sued for and recovered in a court of competent jurisdiction by the Secretary suing in his or her official name.

- (4) Where by virtue of subsection (3) a debt is due by applicants jointly and severally, the Secretary is not entitled to recover amounts that, in the aggregate, exceed the amount of the debt.
- (5) Without limiting the generality of subsection (1), where:
- (a) an amount of assistance has been paid to an applicant or applicants on the basis of an amount of the prescribed earnings of the applicant or applicants and the amount of those prescribed earnings is subsequently determined to be a greater amount; and
 - (b) as a result of the determination, the whole or part of the amount of assistance is not payable;

then, for the purposes of this section, the whole, or that part, as the case may be, of the amount of assistance shall be treated as if it should not have been paid.

- (6) Without limiting the generality of subsection (1), where:
- (a) an amount of assistance has been paid in respect of a dwelling; and
 - (b) either of the following subparagraphs applies:
 - (i) a contract for the purchase of the dwelling was entered into by the applicant or applicants that provided for the payment of the whole or a part of the purchase price by instalments and, before the end of 12 months after the prescribed date in relation to the applicant or applicants, the contract is discharged otherwise than by performance of the contract;
 - (ii) a contract for the purchase of the dwelling that provided for the payment of the whole or a part of the purchase price by instalments was not entered into by the applicant or applicants but any of the circumstances referred to in paragraph 35(2)(a) or (b) occurs;

the amount of assistance is to be treated for the purposes of this section as if it should not have been paid.

- (6A) Without limiting the generality of subsection (1), where:

Section 37A

- (a) an amount of assistance has been paid to a person or persons in respect of a dwelling; and
 - (b) that person, or at least one of those persons, as the case may be, ceases to be a prescribed person in relation to the dwelling because of a direction under section 5;
- then, for the purposes of this section, the amount of assistance (whether paid before or after the commencement of this subsection) shall be treated as if it should not have been paid to that person or those persons, as the case may be.
- (7) Without limiting the generality of subsection (1), where an advance has been paid to an applicant or applicants on account of an amount of assistance and it is subsequently determined that the amount of assistance is not payable or the amount of assistance payable is less than the amount of the advance, then, the amount of the advance, or the amount of the difference, as the case may be, shall, for the purposes of that subsection, be deemed to be an amount of assistance that should not have been paid.
 - (8) Where the whole or part of an amount of assistance that has become payable to an applicant or applicants has not been paid, the Secretary shall pay the whole, or that part, as the case may be, of the amount to the applicant or applicants, as the case may be, by way of a single payment or as otherwise prescribed.
 - (9) An amount of less than \$10 is not payable under subsection (8).

37A Waiver etc.

- (1) The Secretary may, on behalf of the Commonwealth:
 - (a) write off an amount overpaid;
 - (b) waive or defer the right of the Commonwealth to recover an amount overpaid; or
 - (c) allow an amount overpaid to be repaid to the Commonwealth in instalments.
- (2) In this section, *amount overpaid* has the same meaning as in section 37.

Section 39

39 Prosecutions for offences

Proceedings for an offence against this Act or the regulations may be commenced at any time within 6 years after the commission of the offence.

40 Evidence

- (1) The Secretary may by instrument in writing:
 - (a) create offices for the purposes of this section; and
 - (b) appoint persons to those offices.
- (2) All courts shall take judicial notice of the signature of any person:
 - (a) who holds or has held the office of Secretary; or
 - (b) who holds or has held an office under subsection (1);and of the fact that that person holds or has held that office, if the signature purports to be attached or appended to an official document, and any such document purporting to be so signed is *prima facie* evidence in all courts of the facts and statements contained in the document.
- (3) A certificate in writing signed by a person who holds or has held an office referred to in subsection (2) certifying:
 - (a) that assistance of a specified amount was paid to a specified person or to specified persons on a specified date; or
 - (b) that a specified amount is the amount of assistance paid to a specified person or to specified persons in consequence of a specified act, failure or omission;is *prima facie* evidence in all courts of the matters certified.

41 Reports

- (1) The Secretary shall, as soon as practicable after each 30 June, furnish to the Minister a report as to the administration and operation of this Act during the year ended on that date.
- (1A) Without limiting the generality of subsection (1), a report in respect of a year shall state the sum of, and specify particulars (in summary form) of:

- (a) all amounts written off during the year under paragraph 37A(1)(a); and
 - (b) all amounts whose recovery has been waived during the year under paragraph 37A(1)(b).
- (2) The Minister shall cause a copy of each report of the Secretary to be laid before each House of the Parliament within 15 sitting days of that House after the receipt of the report by the Minister.
- (3) The Secretary is not required by subsection (1) to furnish a report as to the administration and operation of this Act during any year after the year ending on 30 June 1995.

42 Regulations

- (1) The Governor-General may make regulations, not inconsistent with this Act, prescribing matters:
 - (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Without limiting the generality of the power to make regulations conferred by subsection (1), the regulations may make provision for and in relation to:
 - (a) the amounts in which payments of assistance are to be made;
 - (b) the manner in which assistance is to be paid;
 - (c) where assistance is payable by way of periodical payments, the period within which those payments are to be made;
 - (d) the consequences of the death of applicants entitled to assistance;
 - (e) the circumstances, and the manner, in which amounts of assistance paid to applicants who have died may be recovered;
 - (f) the circumstances in which applicants entitled to assistance may cease to be so entitled;
 - (g) the circumstances in which applicants who have ceased to be entitled to assistance may resume their entitlement;
 - (h) the circumstances in which amounts of assistance are payable to applicants in consequence of their resumption of

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- entitlement to assistance, and the circumstances, and the manner, in which amounts so paid are recoverable;
- (j) the manner in which, and the conditions subject to which, applicants who have resumed their entitlement to assistance may request the payment of that assistance; and
 - (k) prescribing penalties not exceeding \$1,000 for offences against the regulations.
- (3) Without limiting the generality of subsection (2), the regulations may provide for:
- (a) greater amounts of assistance to be payable to applicants who have dependent children;
 - (b) different scales of the amounts of assistance depending upon the option of applicants; and
 - (c) the manner in which such options are to be exercised.
- (4) The power to make regulations conferred by this Act shall not be taken, by implication, to exclude the power to make provision for or in relation to a matter by reason only of the fact that:
- (a) provision is made by this Act in relation to that matter or another matter; or
 - (b) power is expressly conferred by this Act to make provision by regulation for or in relation to another matter.
- (5) The power to make regulations conferred by this Act may be exercised:
- (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of case; and
 - (b) so as to make, as respects the cases in relation to which it is exercised, the same provision for all those cases or different provision for different cases or classes of case.

Table of Acts**Notes to the *First Home Owners Act 1983*****Note 1**

The *First Home Owners Act 1983* as shown in this compilation comprises Act No. 46, 1983 amended as indicated in the Tables below.

All relevant information pertaining to application, saving or transitional provisions prior to 24 November 2000 is not included in this compilation. For subsequent information *see* Table A.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>First Home Owners Act 1983</i>	46, 1983	21 Sept 1983	21 Sept 1983	
<i>First Home Owners Amendment Act 1985</i>	23, 1985	20 May 1985	Ss. 3-5, 7-9 and 14: 17 Apr 1985 Remainder: Royal Assent	S. 14
<i>Statute Law (Miscellaneous Provisions) Act 1987</i>	141, 1987	18 Dec 1987	S. 3: Royal Assent (a)	S. 5(1), (11) and (12)
<i>Statute Law (Miscellaneous Provisions) Act 1988</i>	38, 1988	3 June 1988	S. 3: Royal Assent (b)	S. 5(1)
<i>Social Security Legislation Amendment Act 1988</i>	133, 1988	22 Dec 1988	S. 61: 29 Dec 1988 (c)	—
<i>Community Services and Health Legislation Amendment Act (No. 2) 1988</i>	155, 1988	26 Dec 1988	Part II (ss. 3-5): Royal Assent (d)	—
<i>Migration Legislation Amendment Act 1989</i>	59, 1989	19 June 1989	S. 38: 19 Dec 1989 (e)	—

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Community Services and Health Legislation Amendment Act (No. 2) 1989</i>	3, 1990	17 Jan 1990	Ss. 4, 26(b), (c), 28 and 31: 1 July 1990 Ss. 5 and 26(d), (e): 1 July 1990 (see <i>Gazette</i> 1990, No. S164) S. 14(e): 1 June 1990 S. 16: 1 July 1988 Ss. 33, 34 and 36: 1 Apr 1990 (see <i>Gazette</i> 1990, No. S83) Remainder: Royal Assent	Ss. 9(2) and 11(2)
<i>First Home Owners Amendment Act 1990</i>	89, 1990	20 Nov 1990	S. 4: 22 Aug 1990 Remainder: Royal Assent	—
<i>Social Security Legislation Amendment Act 1990</i>	6, 1991	8 Jan 1991	Part 4 (ss. 87, 88): 1 Jan 1991 (f)	—
<i>Health, Housing and Community Services Legislation Amendment Act 1992</i>	88, 1992	30 June 1992	Part 3 (ss. 29-31): (g)	—
<i>Housing Legislation Amendment Act 1995</i>	49, 1995	23 June 1995	23 June 1995	S. 3 (item 7)
<i>Public Employment (Consequential and Transitional) Amendment Act 1999</i>	146, 1999	11 Nov 1999	Schedule 1 (item 488): 5 Dec 1999 (see <i>Gazette</i> 1999, No. S584) (h)	—
<i>Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000</i>	137, 2000	24 Nov 2000	Ss. 1-3 and Schedule 1 (items 1, 4, 6, 7, 9-11, 32): Royal Assent Remainder: 24 May 2001	Sch. 2 (items 418, 419) [see Table A]

Act Notes

- (a) The *First Home Owners Act 1983* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act 1987*, subsection 2(1) of which provides as follows:
 - (1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.
- (b) The *First Home Owners Act 1983* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act 1988*, subsection 2(1) of which provides as follows:
 - (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (c) The *First Home Owners Act 1983* was amended by section 61 only of the *Social Security Legislation Amendment Act 1988*, subsection 2(3) of which provides as follows:
 - (3) The amendments of the *First Home Owners Act 1983* made by Schedule 4 commence on 29 December 1988.
- (d) The *First Home Owners Act 1983* was amended by Part II (sections 3-5) only of the *Community Services and Health Legislation Amendment Act (No. 2) 1988*, subsection 2(1) of which provides as follows:
 - (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (e) The *First Home Owners Act 1983* was amended by section 38 only of the *Migration Legislation Amendment Act 1989*, subsection 2(5) of which provides as follows:
 - (5) If a provision of this Act (other than section 1, 2, or 35 or Part 3) has not commenced within the period of 6 months beginning on the day on which this Act receives the Royal Assent, that provision commences on the first day after the end of that period.
- (f) The *First Home Owners Act 1983* was amended by Part 4 (sections 87 and 88) only of the *Social Security Legislation Amendment Act 1990*, section 2 of which provides as follows:
 - 2. Each provision of this Act commences, or is taken to have commenced, as the case requires, on the day shown by the note in italics at the foot of the provision.
- (g) The *First Home Owners Act 1983* was amended by Part 3 (sections 29-31) only of the *Health, Housing and Community Services Legislation Amendment Act 1992*, subsection 2(3) of which provides as follows:
 - (3) Part 3 is taken to have commenced immediately after the commencement of section 17B of the *First Home Owners Act 1983*.

Section 17B commenced on 1 January 1991.
- (h) The *First Home Owners Act 1983* was amended by Schedule 1 (item 488) only of the *Public Employment (Consequential and Transitional) Amendment Act 1999*, subsections 2(1) and (2) of which provide as follows:
 - (1) In this Act, **commencing time** means the time when the *Public Service Act 1999* commences.
 - (2) Subject to this section, this Act commences at the commencing time.

Table of Amendments

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 4.....	am. No. 23, 1985; No. 38, 1988; No. 146, 1999
S. 5.....	am. No. 23, 1985; No. 155, 1988
S. 6.....	am. No. 23, 1985
S. 9.....	am. No. 23, 1985
S. 13.....	am. Nos. 38 and 133, 1988 rs. No. 3, 1990
S. 14.....	am. No. 23, 1985; No. 141, 1987; No. 3, 1990
S. 15.....	am. No. 23, 1985
S. 16.....	am. No. 23, 1985; No. 89, 1990
S. 17.....	am. No. 59, 1989; Nos. 3 and 89, 1990
S. 17A	ad. No. 89, 1990
S. 17B	ad. No. 6, 1991 am. No. 88, 1992
S. 17C	ad. No. 88, 1992
Ss. 20, 21	am. No. 23, 1985
S. 22.....	am. No. 23, 1985; No. 38, 1988; No. 89, 1990
Ss. 23, 24	am. No. 23, 1985
S. 25.....	rs. No. 38, 1988
Ss. 27, 28	am. No. 23, 1985; No. 49, 1995
S. 29.....	am. No. 23, 1985; No. 38, 1988
Ss. 30, 31	am. No. 23, 1985
S. 33.....	am. No. 23, 1985
S. 34.....	rs. No. 23, 1985
S. 36.....	am. No. 23, 1985
S. 37.....	am. No. 23, 1985; No. 155, 1988; No. 3, 1990
S. 37A	ad. No. 38, 1988
S. 38.....	am. No. 23, 1985 rs. No. 89, 1990 rep. No. 137, 2000
S. 40.....	rs. No. 23, 1985
S. 41.....	am. No. 38, 1988; No. 49, 1995

Table A

Table A

Application, saving or transitional provisions

Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000 (No. 137, 2000)

Schedule 2

418 Transitional—pre-commencement offences

- (1) Despite the amendment or repeal of a provision by this Schedule, that provision continues to apply, after the commencement of this item, in relation to:
- (a) an offence committed before the commencement of this item; or
 - (b) proceedings for an offence alleged to have been committed before the commencement of this item; or
 - (c) any matter connected with, or arising out of, such proceedings;
- as if the amendment or repeal had not been made.
- (2) Subitem (1) does not limit the operation of section 8 of the *Acts Interpretation Act 1901*.

419 Transitional—pre-commencement notices

If:

- (a) a provision in force immediately before the commencement of this item required that a notice set out the effect of one or more other provisions; and
 - (b) any or all of those other provisions are repealed by this Schedule; and
 - (c) the first-mentioned provision is amended by this Schedule;
- the amendment of the first-mentioned provision by this Schedule does not affect the validity of such a notice that was given before the commencement of this item.