



Exemption where Applicant is Under 18 Years of Age

This Commissioner's practice outlines the type of information a first home owner grant applicant (applicant) must provide under the *First Home Owner Grant Act 2000* (FHOG Act) for the Commissioner of State Revenue (Commissioner) to consider whether to exempt them from the requirement to be at least 18 years of age (the age requirement).

Background

The age requirement of an applicant is determined at the date of application for the first home owner grant ('the grant') in accordance with section 14AA of the FHOG Act.

The application of the age requirement criterion is to prevent ineligible persons from receiving the grant by purchasing a property in the name of a child who has no intention or resources to otherwise purchase that property. However, there are circumstances where persons under the age of 18 genuinely purchase or build a home and may be eligible for the grant.

Legislative Provisions

Under section 9A(1) of the FHOG Act, an applicant must be at least 18 years of age, however, section 9A(2) provides that the Commissioner may exempt an applicant from the age requirement if the Commissioner is satisfied that:

- the applicant intends to comply with the residence requirements to the extent that the applicant is required to do so and
- the application does not form part of a scheme to circumvent limitations on, or requirements affecting, eligibility for or entitlement to the grant.

In deciding whether to exempt an applicant from the age requirement, section 9A(3) of the FHOG Act provides that the Commissioner must take into account:

- the circumstances in which the eligible transaction was entered into, including any financial or familial arrangements and
- the circumstances in which the application is made, particularly where there is the involvement of a guardian, trustee or other person acting with or on behalf of the applicant, and the eligibility of that guardian, trustee or other person for the grant.

Commissioner's Practice

1. Following receipt of an application for the grant in which it is evident that an applicant was under the age of 18 years at the date of application for the grant, the Commissioner will issue a letter to the applicant seeking to ensure that they hold or will hold a relevant interest in the land on which the home is situated.
2. The applicant will be requested to provide details of their specific circumstances including the following information (where applicable):
 - 2.1 confirmation that the applicant is working, and the capacity in which the applicant is working (i.e. permanent, part-time, casual)

- 2.2 evidence of the applicant's annual salary
 - 2.3 if finance was not required to purchase or build the home, evidence that the property was paid for or will be paid for by the applicant. Evidence includes, but is not limited to:
 - 2.3.1 copies of receipts for the deposit and transfer duty (if paid) showing that the payments were made by the applicant and
 - 2.3.2 copies of bank statements showing the total cash amount paid solely by the applicant
 - 2.4 if finance was required to purchase or build the home, evidence that the property was paid for or will be paid for by the applicant, including:
 - 2.4.1 that the loan is solely in the applicant's name and not jointly with another person, unless that person is also an applicant
 - 2.4.2 that the loan is for the purchase or construction of the home
 - 2.4.3 the amount of the loan repayments
 - 2.4.4 that the applicant is solely responsible for making any loan repayments or jointly responsible with another applicant and
 - 2.4.5 copies of receipts for the deposit and transfer duty (if paid) showing that the payments were made by the applicantand
 - 2.5 a signed declaration stating that the home will be occupied, or is currently being occupied, by the applicant for a continuous period of at least six months commencing within 12 months after completion of the eligible transaction, and that all payments were made or are to be made by the applicant.
3. If the Commissioner is satisfied that the information and documentation provided by the applicant proves that the applicant is genuinely purchasing a residence to use as a home, the Commissioner will generally grant the exemption for the applicant from the age requirement.
 4. If the Commissioner is not satisfied that the information and documentation provided by the applicant proves that the applicant is genuinely purchasing a residence to use as a home, the Commissioner will provide a statement of grounds to the applicant outlining the reasons for not granting an exemption from the age requirement.

Examples in which an applicant may be exempted from the age requirement

- A couple, where one or both applicants are aged under 18, who both work, have saved for a deposit, and have sufficient combined income to service the mortgage.
- An employed applicant whose parents contributed to the deposit for a home loan. However, the loan is in the applicant's name, the applicant is solely responsible for the mortgage repayments, and the applicant's parents have no title to or interest in the home, and live in a different house to the applicant.
- An applicant who has used funds from an inheritance to purchase a home in which they will reside.
- A disabled applicant whose guardian has used a compensation payment to purchase a home that is modified to suit the applicant's needs. Note, an application can be made by a guardian on behalf of a person under a legal disability in accordance with section 17 of the FHOG Act.

Date of Effect

This Commissioner's practice takes effect from 5 April 2016.

Nicki Godecke
COMMISSIONER OF STATE REVENUE

5 April 2016

Commissioner's Practice History

Document	Issued	Dates of effect	
		From	To
FHOG 9.0	5 April 2016	5 April 2016	Current