

1982

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

HOME DEPOSIT ASSISTANCE BILL 1982

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Housing and Construction, the

Hon. D.T. McVeigh, M.P.)

OUTLINE

The purpose of this Bill is to provide a legislative basis for the proposed Home Deposit Assistance Scheme which is to replace the current Home Savings Grant Scheme which operates under the provision of the Homes Savings Grant Act 1976, and in large part the Bill repeats the provisions of that Act.

However, the Bill does not contain the limits on the value of the home contained in the 1976 Act, and replaces that value limit with a limit on the incomes of applicants. In addition the period of savings for a maximum grant has been reduced from three years to two years and the ratio between amount of accumulated acceptable savings and amount of grant has been reduced from 3:1 to 1:1.

Basically the Bill provides that the income of applicants will be the assessable taxable income of applicants under the provisions of the Income Tax Assessment Act, with provision also being made for the determination of the "taxable" income of persons who are not obliged under the tax legislation to furnish a tax return. The income of all applicants joined in a particular application will be added before the fixed income limits are applied to applicants' income. The taxable income of applicants will normally be the taxable income for the income year preceding the date of home acquisition, although in certain circumstances account may be taken of a later period of income.

The Bill also contains provisions to improve the wording of a number of the provisions adopted from the Homes Savings Grant Act 1976 and to correct anomalies which have arisen in practice in the operation of that Act. These include provisions relating to the minimum age, and citizenship and residence status of applicants; the forms of acceptable savings; penalties for offences under the legislation; moneys held in trust; and family bonuses.

PART I - PRELIMINARY

Clause 1 : Short title

Formal

Clause 2 : Commencement

Formal

Clause 3 : Objects of Act

The objects follow the objects of the Homes Savings Grant Act 1976 but include specific reference to the Government's intention to encourage people to save for their own home. Additionally regard shall be had to the objects in both the interpretation and the administration of the Act.

PART II - INTERPRETATION

Clause 4 : Interpretation

The definitions in sub-clause (1) are the same as the definitions in section 4(1) of the Homes Savings Grant Act 1976 apart from the exceptions mentioned below:

"applicant"

A minor variation to the definition of applicant was required to take account of the new provisions in Section 5 (relating to a discretion of the Secretary to deem a person to be not an applicant in certain circumstances).

"approved interest"

This term sets out the forms of interest in land which are approved for the purposes of the legislation. Minor changes have been made to the approved interests in the Homes Savings Grant Act 1976, namely

- (b) as there is now the Crown in right of the Northern Territory this has been included in (b);
- (d) the need for a private lease to be a lease from the owner of an estate in fee simple has been removed thus permitting as an approved interest a sub-lease in cases where the Secretary is satisfied that the sub-lease gives reasonable security of tenure for a substantial period - the amended definition has allowed Crown leases to be included in (d) rather than in (e).

"joint applicant"

The definition has been rephrased without changing the substance of the definition.

"lease"

"Lease" has been defined so as to include "sub-lease" as a consequence of the change in the definition of "lease" in "approved interest" (d).

"prescribed person"

The definition of this term has been changed so as to take account of the new provisions in clause 5.

"savings bank"

The change of name of the State Savings Bank of Victoria to the State Bank of Victoria is reflected in the definition.

"trading bank"

The change of name of the Rural Bank of New South Wales to the State Bank of New South Wales is reflected in the definition.

Sub-clause (2) is a machinery provision which establishes two-year savings periods, and the starting point for those periods. Sub-clause (3) is an interpretation provision.

Clause 5 : Person not intending to reside in dwelling

This clause continues, with some exceptions, the provisions of Section 15(5) of the Homes Savings Grant Act 1976. Broadly, the clause provides that where a spouse of an applicant has resided in the subject dwelling but no longer so resides and has no intention of so residing, then that spouse may be deemed not to be a prescribed person or applicant. This clause continues, to the extent possible, the provisions of Section 46 of the Homes Savings Grant Act 1976 relating to non-signing spouses. The provisions of Section 46 cannot be repeated exactly, however, because of the introduction of an income-test on applicants.

The clause also provides that where a person is a prescribed person or an applicant in relation to a dwelling, but does not intend to reside in that dwelling, then the Secretary, in his discretion, may direct that the person is not, and never has been, a prescribed person or applicant in relation to the dwelling. This provision is meant to cover the case where a person, e.g. a parent, has entered into a relevant contract merely to act as guarantor and without any intention of residing in the subject dwelling - without this provision that person would be obliged to join in the application for a grant.

Clause 6 : Retrospective approval of savings banks and trading banks

This clause repeats the provisions of Section 5 of the Homes Savings Grants Act 1976 and provides that the Secretary, in gazetting under clause 4 his approval of savings banks or trading banks, may do so retrospectively. This provides a protection to prospective applicants in cases where a change in the legal title of a bank occurs some time before it comes to the attention of the Secretary, in that Secretary is able to gazette approval retrospectively for the bank as an institution with which acceptable savings may be held.

Clause 7 : References to spouse

As in section 6 of the Homes Savings Grant Act 1976, clause 7 provides that a reference to a spouse includes a reference to a de facto as well as a de jure spouse. Clause 7 also repeats the provision that the Secretary may direct that, on a particular date, legally-married persons are not spouses if they are living apart and have no intention of resuming co-habitation.

Clause 8 : Moneys deposited in banks in external Territories

Repeats the provisions of section 8 of the Homes Savings Grant Act 1976

Clause 9 : Commencement and completion of construction of dwelling

This clause, as with Section 9 of the Homes Savings Grant Act 1976 makes provision for the determination of the date of commencement of construction of a dwelling. Basically, that date is the date on which work commenced on the laying of the foundations of the dwelling. However, the Secretary has a discretion to determine, having regard to all the circumstances, that construction commenced on a later date. It is further provided that where a person completes the construction of a dwelling partly-constructed by another person then the commencement of the completion of the dwelling is to be taken as the commencement of construction of that dwelling.

Clause 10 : Dwelling consisting of part of a building

As in Section 10 of the Homes Savings Grant Act 1976, clause 10 provides that the commencement of construction of a dwelling which forms part of a building shall be read as the commencement of construction of the building. Sub-clause (2) further provides that, in cases where a dwelling is a part of a building, then a reference to the land on which a dwelling is, or is to be erected, is to be read as a reference to the land on which the building is, or is to be, erected. This additional provision is required by changes in clauses 11 and 15 from the provisions of Sections 11 and 15 of the Homes Savings Grant Act 1976.

Clause 11 : Purchase or ownership of land or dwelling

Clause 11 largely repeats the provisions of section 11 of the present Act. The broad purpose of the section is to provide a specification in precise legal terms of the common expressions "purchase of a dwelling" or "ownership of a dwelling".

Sub-clause (2) differs from section 11 (2) in that it has been reworded so as to provide a better differentiation between a detached dwelling on a single parcel of land, and a dwelling which is either part of a building, or else is one of two or more buildings on a single parcel of land.

Sub-clause (3) provides that in cases where a non-applicant is a joint-proprietor of subject land that person does not affect the application if an exclusive right of occupancy of the land is provided to the applicant. Sub-clause (4) forms part of the classificatory provisions in sub-clauses (1) and (2).

Clause 12 : Purchase of a home to be moved to other land

Clause 12, which repeats section 12 of the Homes Savings Grant Act 1976, relates to cases in which the subject dwelling originally stood on other land, or else was constructed off-site. A contract to purchase such a dwelling shall be deemed to be a contract for the construction of such a dwelling, and commencement of construction such as a dwelling shall be deemed to have commenced on the date on which the contract to purchase the dwelling was entered into.

Clause 13 : Dwelling on rural property

Clause 13 provides that:

where a person commences construction as an owner-builder, or contracts for the construction of a dwelling, on rural land owned by another person;

and where the Secretary is satisfied that the owner of the land has given permission for occupation of the dwelling;

then that permission shall be deemed to create an interest in the relevant land. "Rural property" is defined in clause 4(1).

Clause 14 : Trusts etc.

Clause 14, which largely repeats the provisions of section 14 of the Homes Savings Grant Act 1976, relates to relevant trusts in relation to purchase or ownership of land, and relevant trusts in relation to the holding of acceptable savings. Broadly, the clause provides that where, on behalf of an applicant, a trustee enters into a contract for the purchase of land or a dwelling, or holds land, then the applicant may be deemed to have entered into the contract, or to have held the land, provided the Secretary is satisfied that the applicant will become the owner of the land or dwelling.

Sub-clause 4 provides that where a trustee holds moneys that have been held in trust for, or expended on behalf of, an applicant then those moneys shall be deemed to have been held or expended by the applicant. Sub-clause 4 differs from section 14 (4) of the Homes Savings Grant Act 1976 in that it has been reworded so as to provide expressly that where a trustee holds moneys for an applicant, together with other moneys, and the interest of the applicant is identifiable, then those moneys may be deemed to be held by the applicant.

PART III - GRANTS OF ASSISTANCE

Division 1 - Application for, and Making of, Grants

Clause 15 : Persons who, subject to section 16, may apply

Sub-clause 1 sets down the basic threshold for persons who may apply for a grant. That is, the Bill is directed towards providing assistance to "home acquirers", and sub-clause (1) makes provision for that class of persons. Basically, the sub-clause provides that a home acquirer is a person who has:

- . entered into a contract for the purchase of an existing dwelling;
- . entered into a contract with a builder for the construction of a dwelling on land that is owned, or will be owned, by the home acquirer; or

- . commenced construction as an owner-builder of a dwelling on land that is owned, or will be owned, by the home acquirer.

Sub-clause (1) provides also for a variety of circumstances arising in cases where there is more than one home acquirer in relation to a home acquisition. It further provides that all of the home acquirers in relation to a particular home acquisition, and the spouses of those home acquirers, are prescribed persons. The precise meaning of the terms used in sub-clause (1) are derived from the provisions of Part II - Interpretation.

Sub-clause (2) provides exceptions to sub-clause (1). That is, a person who enters into a contract etc. and who, on the date of the contract etc., has not attained the age of 16 years, or is not married or engaged to be married, is not a prescribed person. This will mean that a sole home acquirer who is under the age of 16 etc. will not be able to apply for a grant. On the other hand, where a person under the age of 16 etc. is joined in a contract with other persons, those other persons remain as prescribed persons and may apply for a grant.

Sub-clause (2) is a technical provision which provides that persons who have satisfied certain conditions under clause 15 may apply for a grant as provided in clause 16.

Sub-clauses (4) and (5) substantially repeat the provisions of section 15(3) and (4) of the Homes Savings Grant Act 1976. They provide that

- . where a person is not a prescribed person and not a spouse of a prescribed person, but is a fiance of a prescribed person, then that person may, if he consents, be treated as a prescribed person; and
- . where a person has received a grant under the provisions of the Home Savings Grants Acts 1964 and 1976, and has repaid that grant, then the payment of that grant is not a barrier to the payment of a grant under the Bill.

Sub-clause (6) repeats the substance of section 15(6) of the Homes Savings Grant Act 1976. The sub-clause makes provision for the determination of date of a contract, and also provides that if construction commenced before the signing of a contract then that earlier date is the prescribed date in such cases. The rewording of the relevant provisions has been designed to clarify problems relating to "two-contract" cases.

Clause 16 - Applications

Sub-clause (1) provides that a prescribed person under clause 15(3) may apply for a grant.

Sub-clauses (2) to (4) - procedural.

Clause 16 - Making of Grant

This clause provides to the Secretary the power to make a grant under the Bill.

Clause 18 : Grant not payable where applicant previously owned a home

Clause 18, which follows section 18 of the Homes Savings Grant Act 1976, provides a grant may not be made to an applicant if he previously owned another dwelling in Australia, or if one or more of joint applicants previously owned another dwelling in Australia. An exception is made where the previously owned dwelling was not the principal place of residence of the applicant, or was not suitable for the purpose of constituting his principal place of residence.

Clause 19 : Grant not payable unless acceptable savings held and other conditions satisfied

Sub-clauses (1) to (4) repeat the provisions of section 19(1) to (4) of the Homes Savings Grant Act 1976. They provide:

- . that applicants, or an applicant, must hold acceptable savings continuously for at least one year before the prescribed date;

- . grants may not be made to owner-builders unless substantial progress has been made on construction, or unless the dwelling has been completed;
- . grants may not be made unless the Secretary is satisfied that an applicant has adequate financial resources for the performance of the home acquisition;
- . an exception may be made to the adequate resources condition in terms purchase cases.

Sub-clause (5) provides that a grant may not be made unless a sole applicant, or at least one of joint applicants, is an Australian citizen, or a person normally resident in Australia who has permanent residence status. No particular date is provided in relation to this condition and hence it may be satisfied after the date of contract. This provision is more liberal than the comparable provision in section 15(2)(c) of the Homes Savings Grant Act 1976.

Sub-clause (6) - machinery provision relating to means test requirements.

Division 2 - Acceptable Savings

Clause 20 : Interpretation

The interpretation provisions of this clause repeat the provisions of Section 19A of the Homes Savings Grant Act 1976.

Clause 21 : Acceptable savings

A further interpretation provision.

Clause 22 : Sole applicants - bank deposits etc.

Sub-clause (1) provides that the acceptable saving of a sole applicant on a relevant date includes moneys, other than borrowed moneys, held:

- . on deposit with a savings bank, building society or credit union;
- . on fixed deposit with a trading bank;
- . as share subscriptions with a building society;
- . as Australian Savings Bonds (other than bearer bonds).

Sub-clause (2) provides that one-half of moneys held jointly with a former spouse, a former fiancé, or a deceased spouse may be included in an applicant's acceptable savings.

Sub-clause (3) - interpretation.

Clause 23 : Joint applicants - bank deposits etc.

As in clause 22, but in relation to joint applicants.

Clause 24 : Sole applicant - moneys expended in connection with dwelling

Sub-clause (1) provides that where an applicant has expended moneys, other than borrowed moneys, in connection with the purchase of the subject dwelling the Secretary shall include certain moneys expended and may include others in the acceptable savings of the applicant.

Sub-clause (2) follows clause 22(2) in respect of moneys expended jointly with former spouses, fiancées, and deceased spouses, while sub-clause (3) is concerned with interpretation.

Clause 25 : Joint applicants - moneys expended in connection with dwellings

Parallels clause 24.

Clause 26 : Sole applicant - moneys expended on residential land

Sub-clause (1) provides that where moneys, other than borrowed moneys, were expended before the prescribed date by the applicant in the purchase of residential land other than the subject land, the Secretary may in certain circumstances include the moneys so expended, other than borrowed moneys, in the acceptable savings of the applicant. Sub-clause (4) corrects a problem in section 25 of the Homes Savings Grant Act 1976 in that it provides that interest payments as well as capital repayments may be included in moneys expended in the purchase of "other land".

Sub-clause (2) - as with clause 24(2).

Sub-clauses (4) and (5) - interpretation.

Clause 27 : Joint applicants - moneys expended on residential land

Parallels clause 26.

Clause 28 : Moneys held outside Australia by members of Defence Force, etc.

Clauses 22 and 23, in relation to moneys held on deposit with savings banks etc., provide that moneys have to be held with branches of banks etc. in Australia. Clause 28, which largely follows the provisions of Section 27 of the Homes Savings Grant Act 1976, provides that where a member of the Defence Force was serving overseas the Secretary may, in certain circumstances, treat the savings held overseas by the serviceman, or by certain related persons, as being acceptable savings of the serviceman or those other persons as the case may be. The other sub-clauses make provision for moneys held jointly with former spouses etc. and also include interpretation provisions. Sub-clause (1) differs from section 27(1) in that dependency in relation to the overseas servicemen be brought into line with the dependency provisions in Part IV.

Clause 29 : Interruption of holding of acceptable savings

Applicants, in some cases, move their savings from one place to another, or from one form of savings to another, and would, but for clause 29, interrupt the continuity of savings required in other provisions of the Bill. Clause 29 permits the Secretary to accept a break in continuity of savings for a period of up to thirty days.

Clause 30 : Moneys held by deceased spouse

This clause repeats the provisions of section 29 of the Homes Savings Grant Act 1976 and deems that certain matters relating to the savings etc. of a deceased spouse of an applicant are deemed to be matters related to the applicant.

Clause 31 : Secretary may treat moneys as paid or expended

Applicants may withdraw savings from an acceptable form (e.g. a savings bank account) and place them in an unacceptable form (e.g. a cheque account) prior to the date of contract in order to make a payment in relation to the contract. Without the provisions of clause 31 such a withdrawal of moneys from an acceptable form would break the continuity of the applicant's savings.

Division 3 - Prescribed Earnings

Clause 32 : Interpretation

Interpretation

Clause 33 : Prescribed earnings

Sub-clause (1) provides that the prescribed earnings of a sole applicant is the amount of his taxable income in the relevant year of income, and that the prescribed earnings of joint applicants is the sum of the amounts of taxable income of the joint applicants. "Taxable Income" is not defined

expressly in the Bill but the term, pursuant to clause 32(2), takes its meaning from the Income Tax Assessment Act 1936. Sub-clause (2) makes provision for cases where one joint applicant is dealt with under clause 37 and the other or other joint applicants is or are dealt with under clauses 34 and 36.

Clause 34 : Assessment etc. of taxable income

This clause makes provision for the supply to the Secretary of information relating to the taxable income of an applicant. Basically, the clause provides that where an applicant has in his possession a notice of assessment or notice of amended assessment from the Commissioner of Taxation then the applicant is to provide that information. Provision is also made for the applicant to supply other forms of documentation relating to taxable income from the Commissioner where this is appropriate. In cases where an applicant has not been obliged under the tax legislation to furnish a tax return, provision is made in this clause for income information to be supplied direct to the Secretary.

Sub-clause (4) provides for the Secretary to obtain direct from the Commissioner information relating to the income of an applicant and a complementary amendment to Section 16 of the Income Tax Assessment Act 1936 has been proposed. Sub-clause (5) provides that, for the purposes of Division 3, the Secretary is not obliged to consider an applicant's income until a certificate is issued in cases where a return has been made but a certificate has not been issued.

On the other hand, an advance of a grant may be made under clause 56 if the Secretary is satisfied that there are reasonable grounds causing a delay in the determination of an applicant's taxable income.

Clause 35 : Amount of taxable income

Clause 35 is a machinery provision which ensures that the latest determination of assessable income is to be used in the calculation of the grant, or if re-assessment has been made, income is to be determined in relation to a statement made under clause 34 (2) (b).

Clause 36 : Adjustment of taxable income in certain cases

Clause 36 makes particular provision for the "taxable income" of persons who cease to receive income, from income-earning activity, in the period of one year prior to the prescribed date (i.e. the date of contract etc.), and who have not, or are unlikely to, carry on income-earning activity after the prescribed date. Such people are likely to include, in particular, married women who leave the workforce for family reasons.

Sub-clause 1 is a machinery provision. Sub-clause 2 provides that an applicant in the circumstances covered by clause 34 may apply to be treated under the provisions of this clause, and further provides that if the applicant will be so advantaged the Secretary may direct that the applicant will be treated under the clause.

Sub-clause (3) provides a formula for the calculation of the applicant's "taxable income". It takes the number of continuous days prior to the prescribed date during which earnings were not earned, and then takes that number of days as a proportion of 365, and applies that proportion to the applicant's income for the income year prior to the prescribed date. The formula also provides for an appropriate adjustment to be made in cases where the period in which income is not earned runs back into the income year prior to the prescribed date.

Sub-clause 4 - interpretation

Clause 37 : Relevant year of income in certain cases

Clauses 37 makes provision for applicants whose financial circumstances have declined in the period prior to the prescribed date, but whose circumstances are such that they can not be dealt with under the provisions of clause 36.

Sub-clause (1) establishes the special circumstances to which the clause relates, and provides that the Secretary may make a direction in relation to an applicant in those circumstances.

Sub-clause (2) provides that where a direction has been made then the relevant year of income for the applicant is to be the year of income in which the prescribed date falls, and not the preceding year of income.

Sub-clause (3) provides that where an estimate is made of prescribed earnings during the current year of income nevertheless the relevant year of income, may be taken to be the year of income before the prescribed date if that is to the advantage of the applicant.

Clause 38 : Direction under sections 36 and 37

Clause 38 provides that a direction can not be made under both clauses 36 and 37 in respect of the same applicant in relation to the same application.

Division 4 - Amount of Grant

Clause 39 : Amount of grant

Sub-clause (1) is a machinery provision. Sub-clause (2) provides that where the relevant savings period is not less than one year but less than two years then the amount of grant is \$1250 or the amount of the acceptable savings, whichever is the lesser.

Sub-clause (3) provides for the amount of grant in cases where the relevant savings period is not less than 2 years. The formula for determining the amount of grant contained in sub-clause (3) provides that account can be taken of up to \$1500 of savings in either of the two saving years, although the total amount of acceptable savings can only be \$2500. The formula also provides that where there is more than a \$1500 increase in savings in the first year, and those savings are held at the end of the second year, account may be taken of the earlier excess. On the other hand the amount of grant can not be greater than the amount of savings held on the prescribed date or \$1500, whichever is the lesser. Sub-clause (3) also provides, by implication, that the amount of grant is \$1 for every \$1 of accumulated acceptable savings, although later provisions allow for the amount to be adjusted in relation to applicants' income.

Sub-clause (4) qualifies the amount of grant calculated in sub-clauses (2) and (3) by providing that the amount of grant so calculated shall be reduced proportionately to the extent that the amount of prescribed earnings of the applicant or applicants exceeds the lower amount provided in sub-clause (5), and does not exceed the higher amount in that sub-clause. Where the amount of earnings is equal to, or greater than, the higher amount in sub-clause (5) no grant will be payable.

Sub-clause (6) provides for rounding to single dollars of the amount of grant, and sub-clause (7) provides that a grant shall not be made if the amount ascertained in accordance with this clause is less than \$10.

Sub-clause (8) provides that in certain circumstances the Secretary may use an assumed prescribed date in place of the actual date if the assumed date is not more than fourteen days either side of the actual date.

PART IV - FAMILY BONUSES

Clause 40 : Interpretation

Sub-clause (1) is a procedural clause linking the meaning of expressions used in this Part with expressions used in Part VI of the Social Services Act 1947.

Sub-clause (2) defines those expressions having special meanings for the purposes of this Part. The period of 11 months specified in the definition of "prescribed period" takes into account that endowment may not be available for up to one month from the birth of a child and that a pregnancy may extend into the tenth month. Thus payment of endowment, resulting in eligibility for a bonus, may not occur until 11 months after entry into a home contract entered into in anticipation of a birth.

Clause 41 : Entitlement to bonus

This clause authorises payment of a bonus where a grant is payable, or would be payable but for the operation of both sub-clauses 39(6) and (7), or of sub-clause 39(7) on its own, and endowment has been paid, or would be

payable, but for sections 95A or 95B of the Social Services Act 1947 (provisions which relate to endowment entitlement in respect of children in receipt of payments under a prescribed educational scheme).

Clause 42 : Amount of bonus

This clause establishes that the amount of bonus payable where there is one dependent child will be \$500, and will be \$1000 where there are two or more dependent children.

Clause 43 : Application of Act

Machinery provision.

PART V - ADMINISTRATION

Clause 44 : Delegation

This clause permits the Secretary to delegate his powers in respect of the detailed administration of the legislation. He may not delegate, however, his power of delegation.

Clause 45 : Interpretation

Procedural

Clause 46 : Review of decisions

A decision under the Bill may be reviewed if sufficient reason exists, such as production of additional evidence by an applicant.

Clause 47 : Reconsideration by Secretary

An applicant may request reconsideration of a decision and the Secretary (or his delegate) is required to then so reconsider it.

Clause 48 : Notification of rights under section 49

Clause 49 : Appeals to Administration Appeals Tribunal

These two clauses permit an applicant dissatisfied with the Department's final decision to request the Administrative Appeals Tribunal to review that decision. The Department is required to notify the applicant in writing of the right to approach the Tribunal.

Clause 50 : Officers to observe secrecy

Officers and former officers of the Department, except for the purposes of the Bill, may not record or divulge information about the affairs of an applicant. Disclosure of information is permitted if the Minister or Secretary certifies that it is in the public interest.

Clause 51 : Information as to applicants

This clause authorises the Secretary to obtain confidential reports on applicants where the information may affect the payment of grants, if the Minister approves.

Clause 52 : Powers as to taking of evidence and production of documents

This clause authorises the Secretary to require production of documents and to summon witnesses and receive evidence on oath, if the Minister approves.

Clause 53 : Directions

Procedural

Clause 54 : Indemnity to certain persons

This clause indemnifies persons providing information or documents where they might otherwise be prevented by a State law.

PART VI - MISCELLANEOUS

Clause 55 : Payment of grants

This clause empowers the Secretary to pay a grant to a sole applicant, to joint applicants, or to a person nominated by the applicants. Where a joint applicant has died before payment of a grant, the grant may be paid to the surviving applicant or applicants. The clause provides also for payment of the grant in other situations where it is not practicable to pay it to all joint applicants.

Clause 56 : Advances

In cases where an applicant is unable to establish promptly his prescribed earnings for the purposes of Division 3 and Division 4 of the Bill, the Secretary is empowered to advance to the applicant an amount not exceeding 80% of the grant (and 100% of the family bonus) that is estimated will eventually be payable.

Clause 57 : Appropriation

This clause provides legislative authority for appropriation of moneys from the Consolidated Revenue Fund for the period to which the Act applies. That is the funds will be provided by special appropriation rather than by annual appropriation under the Appropriation Bills.

Clause 58 : Repayment of grants in certain circumstances

Clause 58 empowers the Secretary to require repayment of the grant if the transaction to acquire the home is not completed after payment of the grant, and provides a penalty for failure to notify that the transaction was not completed. The Commonwealth is empowered to proceed in court for recovery of the grant as a debt to the Commonwealth.

Clause 58A : Notification of assessment

Where an applicant has received a grant and subsequently the relevant income of the applicant is determined to be greater than the taxable income when the grant was initially determined than that applicant, pursuant to the provisions of clause 58A, will be obliged, under penalty, to advise the Secretary of the later determination of his taxable income.

Clause 59 : Adjustments of grants

This clause provides for recovery of:

- . a grant or part of a grant paid in consequence of a false or misleading statement by an applicant;
- . a grant or part of a grant made in accordance with clauses 33 and 39, where it is established subsequently that the prescribed earnings is a greater amount;
- . an advance or part of an advance made in accordance with clause 56, where it is established subsequently that no grant, or a grant less than the amount of the advance, is payable.

The clause provides also for payment of a grant or additional grant beyond the amount of an advance under clause 56, in appropriate circumstances, where this grant or additional grant is not less than \$10.

Clause 60 : Misleading statements, etc.

This clause provides for penalties upon conviction for offences against the legislation by making or presenting false or misleading statements or by means of impersonation or fraudulent device.

A court may, in addition to imposing a penalty for such an offence, order repayment of a grant paid in consequence of the offence.

Clause 61 : Prosecutions for offences

Clause 61 limits prosecutions for offences to three years after the offence.

Clause 62 : Evidence

Clause 52 empowers courts to accept official documents as evidence if signed by the Secretary, or by persons formerly holding that position. The clause also authorises courts to accept the certificate of such a person as evidence of the amount of grant paid.

Clause 63 : Reports

This clause requires the Secretary to furnish to the Minister an annual report on the operation of the legislation as soon as practicable after 30 June each year, and requires the Minister to table the report in the Parliament within fifteen sitting days after receipt.

Clause 64 : Termination of operation of Act

Clause 64 is a "sunset" clause providing that a grant will be not payable if the prescribed date is a date later than 17 March 1985. Inclusion of this provision will enable reassessment of the Scheme's effectiveness in three years time in the light of conditions then prevailing.

Clause 65 : Regulations

This clause authorises the making of regulations that may be necessary for giving effect to the legislation.

