

HOME OWNERSHIP SAVINGS AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Home Ownership Savings Act 1974.

Clause 1 relates to the Short Title and date of commencement.

Except as provided in *clause 7 (2)* and *clause 10 (3)*, the Bill is to come into force on 1 January 1982.

Clause 2 amends section 2 of the principal Act.

Subclause (1) (a) adds private savings banks to the list of authorised savings institutions.

Subclause (1) (b) extends the definition of the term “dwelling” to include a dwelling in which the depositor intends to reside with another person who is not a spouse or a dependant of the depositor.

Subclause (1) (c) amends the definition of “housing purposes” so that it includes the acquisition of land on which to erect a dwelling notwithstanding that the land is to be purchased by instalments.

Subclause (2) repeals the definition of the term “qualifying date”, and substitutes a new definition. At present, the qualifying date is the date on which the balance of the account reaches \$250. The qualifying date of any account, except an account which has been opened before 1 January 1982, will be the date of the opening of the account. In respect of an account opened before 1 January 1982 its qualifying date, if it has one, is preserved. If it does not have one then its qualifying date will be 1 January 1982.

Subclause (3) amends the definition of the term “terminating date” to make it clear that the date is applicable to an account as well as to a depositor.

Subclause (4) repeals section 2 (2) of the principal Act and substitutes 2 new subsections to enable a depositor to acquire a dwelling or land in conjunction, not only with the depositor’s spouse or another depositor, but also any other person who the depositor intends to have residing with him or her.

Clause 3 repeals section 3 of the principal Act, relating to eligible savings, and substitutes a new section. The new section provides as follows:

- (a) The total eligible savings in an Ordinary Account may not exceed \$10,250 or such greater sum as may be specified by Order in Council:

- (b) Subject to the new subsections (4) and (5), money must be in an Ordinary Account for at least 3 months before it qualifies as eligible savings:
- (c) Deposits in an Ordinary Account in any qualifying year exceeding in all \$3,000 shall, as regards the excess, be deemed to be deposited in the Account at the beginning of the next qualifying year (if any):
- (d) Any one sum withdrawn from an Ordinary Account for the purchase of land on which to erect a dwelling, shall, where the land is sold before the dwelling is erected, be deemed to have remained in the Account for the purpose of calculating eligible savings to the extent to which the amount of the withdrawal is, as soon as practicable after the sale, restored to the Account:
- (e) Any one sum withdrawn from an Ordinary Account to pay a deposit under a conditional agreement to acquire a dwelling which does not become unconditional, shall be deemed to have remained in the Account for the purposes of calculating eligible savings to the extent to which the amount of the withdrawal is, as soon as practicable, restored to the Account.

Clause 4 repeals section 5 of the principal Act, relating to ineligible depositors, and substitutes a new section.

The main change is contained in subsection (4) which provides that where a depositor has entered into an unconditional contract to purchase or otherwise acquire a dwelling and it is a stipulation of that contract that possession of the dwelling is not to be given until a specified date (being a date not later than 6 months after the date upon which the contract becomes unconditional), the depositor shall be deemed not to have acquired, by virtue of that contract, a beneficial estate or beneficial interest in that dwelling for the purposes of the Act until the arrival of that date of possession or until the depositor, by virtue of that contract or otherwise howsoever, sooner enters into and takes possession of the dwelling.

Clause 5 amends section 6 of the principal Act, which relates to purchase grants.

The minimum savings period to qualify for a grant is reduced from 3 years to 2 years.

Subsection (3) of section 6 is repealed, but the proviso to it is re-enacted. Subsection (3) is made redundant by the new section 3 (3) contained in *clause 3* of the Bill.

In addition it is provided that a purchase grant may, at the discretion of the Housing Corporation, be paid in respect of the acquisition by the depositor of a dwelling to be occupied by him at some future time.

Clause 6 amends section 7 of the principal Act to make it clear that the interest subsidy is only available for the term of the loan or agreement for sale and purchase where that term is less than 5 years.

Clause 7 repeals section 7A (2) of the principal Act, and substitutes a new section.

The present subsection (2) provides for the method of calculating the additional purchase grant (in lieu of interest subsidy) to be determined by Order in Council.

The new subsection (2) sets out the actual formula to be used, and provides for variation of it by Order in Council.

The clause is retrospective to 25 November 1976, being the date on which section 7A came into force.

Clause 8 amends section 8 of the principal Act to consequentially amend cross references.

Clause 9 inserts a new section 11A in the principal Act.

The new section prohibits the opening of new joint Ordinary Home Ownership Accounts.

Clause 10 amends section 12 of the principal Act to correct a drafting error.

Clause 11 adds a new subsection (7) to section 14A of the principal Act.

The new subsection provides that if, in any financial year, the amount of money deposited in or credited to a Special Home Ownership Account exceeds \$3,000, the amount of that excess (to the extent that it does not itself exceed \$3,000) shall be deemed to have been deposited in that account on the commencement of the financial year next following.

Clause 12 amends section 14b of the principal Act to allow a depositor to withdraw from a Special Home Ownership Account any amount in respect of which a tax rebate is not allowed, even if the withdrawal reduces the balance in the Account to a sum less than the closing balance as at the 31st day of March immediately preceding the withdrawal.

Clause 13 amends section 14F of the principal Act, which relates to withdrawal certificates.

Subclause (1) reduces the minimum savings period from 3 years to 2 years.

Subclause (2) provides that the Housing Corporation is not to issue a withdrawal certificate in respect of any sum of money that has not been deposited in or credited to a Special Account for at least 3 months.

Subclause (3) provides that in relation to a Special Account or re-opened Special Account, the depositor shall not be entitled to receive more than 2 withdrawal certificates.

Subclause (4) permits depositors to acquire land by instalments.

Subclause (5) provides that the Housing Corporation may allow an account to remain open after the issue of any withdrawal certificate and not just a withdrawal certificate issued for the purpose of purchasing land on which to erect a dwelling.

Subclause (6) provides that a withdrawal certificate may, at the discretion of the Housing Corporation, be issued in respect of the acquisition of a dwelling to be occupied by the depositor at some future time.

Clause 14 amends section 14J of the principal Act to empower the Housing Corporation to lend money under that section directly to depositors.

Clause 15 amends section 14K of the principal Act which places restrictions on the disposition of dwellings.

Subclauses (1) and (2) provide that where a purchase grant has been paid, or a withdrawal certificate issued, for the acquisition of a dwelling for future occupation by a depositor, the 5-year restriction period is to commence on the date on which the depositor first occupies the dwelling.

Subclause (3) amends section 14κ (2) by providing that the Housing Corporation's consent to the disposition of a dwelling within the restriction period need not be prior to the disposition.

In addition, it is made necessary to obtain the Corporation's consent for a depositor to fail or cease to occupy the dwelling within the restriction period.

Clause 16 amends section 14L of the principal Act.

Paragraph (a) is a consequential amendment.

Paragraph (b) requires the depositor to pay any withdrawal tax under that section to the Housing Corporation instead of to the Commissioner of Inland Revenue as at present.

Hon. D. F. Quigley

HOME OWNERSHIP SAVINGS AMENDMENT

ANALYSIS

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A BILL INTITULED

An Act to amend the Home Ownership Savings Act 1974

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same,
5 as follows:

1. Short Title and commencement—(1) This Act may be cited as the Home Ownership Savings Amendment Act 1981, and shall be read together with and deemed part of the Home Ownership Savings Act 1974* (hereinafter referred to as the
10 principal Act).

(2) Except as provided in sections 7 (2) and 10 (3) of this Act, this Act shall come into force on the 1st day of January 1982.

*Reprinted 1976, Vol. 5, p. 3893

2. Interpretation—(1) Section 2 (1) of the principal Act is hereby amended—

(a) By adding to the definition of the term “authorised savings institution” the following paragraph:

“(d) A private savings bank as defined in section 2 of the Private Savings Banks Act 1964:” 5

(b) By adding to the definition of the term “dwelling” the words “, or by the depositor and any person who is intended by the depositor to reside with the depositor in the dwelling”:

(c) By omitting from the definition of the term “housing purposes” (as inserted by section 2 (1) of the Home Ownership Savings Amendment Act 1976) the words “(not being land to be purchased by instalments)” 15

(2) The said section 2 (1) is hereby further amended by repealing the definition of the term “qualifying date”, and substituting the following definition:

“‘Qualifying date’, in relation to the Home Ownership Account of any depositor, means— 20

“(a) Where the Account was opened before the 1st day of January 1982—

“(i) If on the 31st day of December 1981 there was a qualifying date in respect of the Account, that qualifying date: 25

“(ii) If on the 31st day of December 1981 there was not a qualifying date in respect of the Account, the 1st day of January 1982:

“(b) Where the Account is opened on or after the 1st day of January 1982, the date on which the Account is opened:” 30

(3) The said section 2 (1) is hereby further amended by inserting in the definition of the term “terminating date”, after the words “in relation to any depositor”, the words “or to any Home Ownership Account” 35

(4) Section 2 of the principal Act is hereby further amended by repealing subsection (2), and substituting the following subsections:

“(2) In subsection (3) of this section, ‘any other person’, in relation to a depositor, means— 40

“(a) The spouse of the depositor; or

“(b) Any other depositor; or

“(c) Any person who is intended by the depositor to reside with the depositor. 45

“(3) For the purposes of this Act, a dwelling may be acquired by a depositor—

5 “(a) By the purchase or acquisition by the depositor, or jointly or in common by the depositor and any other person, of an estate in fee simple or an estate of leasehold in a dwelling; or

10 “(b) By the erection of a dwelling on land which is held, or to be held, by the depositor, or jointly or in common by the depositor and any other person, for an estate in fee simple or an estate of leasehold; or

15 “(c) In the case of a unit or flat, by the acquisition by the depositor, or jointly or in common by the depositor and any other person, of shares in a limited liability company or of an undivided share or undivided interest in the land on which the dwelling is situated, or in any other way.”

3. Eligible savings—(1) The principal Act is hereby further amended by repealing section 3, and substituting the following section:

20 “3. (1) Subject to subsection (2) of this section, for the purposes of this Act the amount of the eligible savings in relation to the Ordinary Home Ownership Account of any depositor at any date shall be the amount standing at that date to the credit of the Account.

25 “(2) Notwithstanding anything in subsection (1) of this section—

30 “(a) The eligible savings in relation to any Ordinary Home Ownership Account shall not exceed the total amount of \$10,250 or such greater amount as may be specified from time to time by the Governor-General by Order in Council:

35 “(b) Subject to subsections (4) and (5) of this section, no sum of money deposited in or credited to an Ordinary Home Ownership Account shall qualify as eligible savings in relation to that Account until a period of not less than 3 months has elapsed from and including the date on which that sum was deposited in or credited to the Account:

40 “(c) Where any sum or sums of money amounting in all to a sum in excess of \$3,000 is or are, in any qualifying year applicable to any Ordinary Home Ownership Account, deposited in or credited to that

Account then, for the purposes of this Act, the whole of the excess shall be deemed to have been deposited in the Account immediately upon the commencement of the next qualifying year (if any) applicable to the Account.

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“(3) Where any amount is withdrawn from the Ordinary Home Ownership Account of any depositor at any date—

“(a) Where that date is during any qualifying year, the amount of the eligible savings in the Account at that date and at all earlier dates shall be reduced by the amount of the withdrawal; and

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“(b) Where that date is after the end of the qualifying year ending with the fifth anniversary of the qualifying date, the amount of the eligible savings in the Account at that date shall be reduced by the amount of the withdrawal,—

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so far as the amount of the eligible savings extends:

“Provided that the amount of the eligible savings shall not be reduced to the extent that, before the amount of the withdrawal is taken into consideration, the balance of the Account at that date exceeds the amount of the eligible savings at that date.

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“(4) Where a depositor withdraws the whole or any part of the money standing to the depositor’s credit in the depositor’s Ordinary Home Ownership Account for the acquisition by the depositor of land on which to erect a dwelling and, before the dwelling is erected, the depositor sells that land and restores all or part of the net proceeds of sale into that Account as soon as practicable, then the amount of the withdrawal, to the extent that it has been so restored, shall be deemed not to have been withdrawn from the Account for the purpose of calculating the amount of the depositor’s eligible savings if the depositor has made only one such withdrawal.

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“(5) Where a depositor withdraws the whole or any part of the money standing to the depositor’s credit in the depositor’s Ordinary Home Ownership Account to be used by the depositor as a deposit under a conditional agreement to acquire a dwelling, and the agreement fails to become binding and the depositor restores all or part of the amount of the withdrawal into that Account as soon as practicable, the amount of the withdrawal, to the extent to which it has been so restored, shall be deemed not to have been withdrawn from the Account for the purpose of calculating the amount of the

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depositor's eligible savings if, in relation to each such conditional contract respectively, the depositor has made only one withdrawal from the depositor's Account."

5 (2) Section 4 of the Home Ownership Savings Amendment Act 1976 is hereby consequentially repealed.

4. Ineligible depositors—(1) The principal Act is hereby further amended by repealing section 5, and substituting the following section:

10 "5. (1) Notwithstanding anything in this Act but subject to subsections (2) to (4) of this section, no depositor shall be eligible for any benefits where, in the opinion of the Corporation, the depositor or, in the case of a joint Ordinary Home Ownership Account, either of the depositors—

15 "(a) Either solely or jointly or in common with any other person holds or has held any beneficial interest (including a life estate or life interest) in a dwelling in New Zealand or elsewhere; or

20 "(b) Either solely or jointly or in common with any other person has or had at any time a controlling interest in any limited liability company which at that time held any beneficial interest in a dwelling in New Zealand or elsewhere; or

"(c) Either solely or jointly with any other person has

25 "(2) Having regard to the special circumstances of any case, the Corporation may in its discretion grant, either wholly or partly, and conditionally or unconditionally, benefits to any such depositor.

30 (3) For the purposes of paragraphs (a) and (b) of subsection (1) of this section, a beneficial interest in a dwelling shall be deemed not to include any legal leasehold estate or equitable leasehold estate or any legal licence or equitable licence in land for a term (including any rights of renewal to which the depositor as lessee or licensee may be or have

35 been entitled) of not more than 5 years certain.
"(4) Where a depositor has entered into an unconditional contract to purchase or otherwise acquire a dwelling and it is a stipulation of that contract that possession of the dwelling is not to be given until a specified date (being a date

40 not later than 6 months after the date upon which the contract becomes unconditional), the depositor shall be deemed not to have acquired, by virtue of that contract, a beneficial estate or beneficial interest in that dwelling for the purposes of this Act until the arrival of that date of possession or until

the depositor, by virtue of that contract or otherwise howsoever, sooner enters into and takes possession of the dwelling.”

(2) Section 5 of the Home Ownership Savings Amendment Act 1976 is hereby consequentially repealed.

5. Purchase grant—(1) Section 6 (2) of the principal Act is hereby amended by omitting the figure “3”, and substituting the figure “2”. 5

(2) Section 6 of the principal Act is hereby further amended by repealing subsection (3) (as substituted by section 6 of the Home Ownership Savings Amendment Act 1976), and substituting the following subsection: 10

“(3) Where a depositor at any time uses, for the purposes of this Act, all or any of his eligible savings for the acquisition by the depositor of land in New Zealand upon which to erect a dwelling for the depositor’s housing purposes and if, when the depositor acquires the land, there is a building on the land, then, within 3 months after such acquisition, the depositor shall remove that building from the land unless the Corporation, in its discretion and subject to such conditions as it considers fit to impose, permits the building or any part of it to remain on the land.” 15 20

(3) The said section 6 is hereby further amended by adding the following subsection:

“(6) A purchase grant may, at the discretion of the Corporation, be paid in respect of the acquisition by the depositor of a dwelling to be occupied by him at some future time.” 25

(4) Section 6 of the Home Ownership Savings Amendment Act 1976 is hereby consequentially repealed.

6. Interest subsidy—Section 7 (1) of the principal Act is hereby amended by omitting the words “of the 5 years”, and substituting the words “year of the term of the loan or agreement (not exceeding 5 years)”. 30

7. Capitalisation of interest subsidy—(1) Section 7A of the principal Act (as inserted by section 7 of the Home Ownership Savings Amendment Act 1976) is hereby amended by repealing subsection (2), and substituting the following subsection: 35

“(2) Every such additional purchase grant shall be an amount calculated in accordance with the following formula, or such other formula as may be fixed from time to time by Order in Council:

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$$a \times \frac{(1.085)^n - 1}{(1.085)^n \times 0.085}$$

where—

10 a is the amount of the annual interest subsidy; and
n is the number of years in respect of which that annual interest subsidy is payable.”

(2) This section shall be deemed to have come into force on the 25th day of November 1976.

15 **8. Preservation of benefits**—Section 8 of the principal Act is hereby amended by omitting the words “subparagraph (ii) of paragraph (c) of subsection (1) of section 3, subsection (1) of section 6, or the proviso to subsection (2) of section 7”, and substituting the words “section 3 (2) (a), section 6 (1), the proviso to section 7 (2), or section 7A (2)”.

20 **9. New joint Ordinary Accounts not to be opened**—The principal Act is hereby further amended by inserting, after section 11, the following section:

25 “11A. (1) A person may not open an Ordinary Home Ownership Account jointly or in common with any other person after the expiry of the 31st day of December 1981.

“(2) Any account purported to have been so opened shall be deemed not to be an Ordinary Home Ownership Account.”

30 **10. Transferability**—(1) Section 12 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Subject to this Act, balances in an Ordinary Farm Ownership Account or an Ordinary Fishing Vessel Ownership Account may be transferred to an Ordinary Home Ownership Account.”

35 (2) The following enactments are hereby consequentially repealed:

(a) Section 3 (2) (c) of the Home Ownership Savings Amendment Act 1976:

40 (b) So much of the Second Schedule to the Fishing Vessel Ownership Savings Act 1977 as relates to section 12 (1) of the principal Act.

(3) This section shall be deemed to have come into force on the 25th day of November 1977.

11. Special Home Ownership Accounts—Section 14A of the principal Act (as inserted by section 8 of the Home Ownership Savings Amendment Act 1976) is hereby amended by adding the following subsection: 5

“(7) If, in any financial year ending with the 31st day of March, the amount of money deposited in or credited to a Special Home Ownership Account exceeds \$3,000, the amount of that excess (to the extent that it does not itself exceed \$3,000) shall be deemed to have been deposited in that Account on the commencement of the financial year next following.” 10

12. Withdrawal and transfers from Special Home Ownership Account—Section 14D of the principal Act (as so inserted) is hereby amended by adding the following subsection: 15

“(5) Notwithstanding anything in this section, where a depositor who has deposited in his Special Home Ownership Account an amount in any one financial year ending with the 31st day of March in excess of the maximum amount of any increase in savings on which a rebate is allowable under section 49 (3) of the Income Tax Act 1976, the depositor may withdraw that excess amount at any time during the next ensuing financial year notwithstanding that the balance in the Account is thereby reduced to an amount less than the closing balance of the Account as at the 31st day of March immediately preceding the date of that withdrawal.” 20 25

13. Withdrawal certificate—(1) Section 14F (1) of the principal Act (as so inserted) is hereby amended by omitting the figure “3”, and substituting the figure “2”. 30

(2) The said section 14F (1) (as so inserted) is hereby further amended by adding the following proviso:

“Provided that the Corporation shall not issue such a certificate in respect of any sum of money that has not been deposited in or credited to the Account for at least 3 months.” 35

(3) Section 14F of the principal Act (as so inserted) is hereby further amended by inserting, after subsection (1), the following subsection:

“(1A) In respect of any Special Home Ownership Account, or in respect of any Special Home Ownership Account which has, pursuant to section 14E of this Act, been reopened, the depositor shall not be entitled to receive more than 2 withdrawal certificates.”

(4) Section 14F (2) of the principal Act (as so inserted) is hereby amended by omitting the words “(not being land to be purchased by instalments)”.

(5) Section 14F (7) of the principal Act (as so inserted) is hereby amended by omitting the words “, in the case of a withdrawal certificate issued under subsection (2) of this section,”.

(6) The said section 14F (as so inserted) is hereby further amended by adding the following subsection:

“(8) A withdrawal certificate may, at the discretion of the Corporation, be issued in respect of the acquisition of a dwelling to be occupied by the depositor at some future time.”

14. Loans—(1) Section 14J of the principal Act (as inserted by section 9 (1) of the Home Ownership Savings Amendment Act 1976) is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Where a depositor has, or has had, a Home Ownership Account with an authorised savings institution and intends to borrow any amount from that institution for the purposes of acquiring or erecting a dwelling in New Zealand for his housing purposes, the Corporation may, in its discretion and subject to this Act—

“(a) Advance to the depositor; or
“(b) Advance to that institution, and that institution may so borrow for the purpose of lending it to the depositor—

an equivalent amount, but not exceeding the amount of the depositor’s available savings.”

(2) The said section 14J (as so inserted) is hereby further amended—

(a) By inserting in subsection (2), after the word “institution” in both places where it occurs, the words “or depositor”:

(b) By adding to subsection (3) (a) the words “or depositors”:

- (c) By inserting in subsection 4 (a) after the words “institution”, the words “or depositor”:
- (d) By inserting in subsection (5), after the word “institution”, the words “or depositor”.

15. Restrictions on dispositions—(1) Section 14k (1) (a) 5
of the principal Act (as so inserted) is hereby amended by
adding the words “, or, if the grant is paid in respect of a
dwelling for future occupation under section 6 (6) of this
Act, the date on which the dwelling is first occupied by the
depositor”. 10

(2) Section 14k (1) (b) of the principal Act (as so
inserted) is hereby amended by adding the following proviso:
“Provided that, if a withdrawal certificate is issued in
respect of the acquisition of a dwelling for future occupation
under section 14F (8) of this Act, the period of 5 years shall 15
commence on the date on which the dwelling is first occupied
by the depositor.”

(3) Section 14k (2) of the principal Act (as so inserted)
is hereby amended—

- (a) By omitting the word “prior” where it first occurs: 20
- (b) By inserting, after the words “subsection (1) of this
section”, the words “, or fail or cease to occupy any
such dwelling,”.

16. Effect of dispositions within restriction period—
Section 14L of the principal Act (as so inserted) is hereby 25
amended—

- (a) By inserting, after the words “referred to in that
section”, the words “, or fails or ceases to occupy
any such dwelling,”:
- (b) By omitting from paragraph (b) the word “Commis- 30
sioner”, and substituting the word “Corporation”.