



ANALYSIS

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1974, No. 51

An Act to encourage saving for home ownership

[12 September 1974]

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

1. Short Title and application—(1) This Act may be cited as the Home Ownership Savings Act 1974.

(2) This Act shall apply with respect to all Home Ownership Accounts with an authorised savings institution, whether opened before or after the commencement of this Act.

2. Interpretation—(1) In this Act, unless the context otherwise requires,—

“Authorised savings institution” means—

(a) The Post Office Savings Bank referred to in Part VII of the Post Office Act 1959:

(b) A trustee savings bank established under the Trustee Savings Banks Act 1948:

- (c) A building society which is an approved society under section 57A of the Building Societies Act 1965:
- “Benefits” means purchase grants and interest subsidies:
- “Corporation” means the Housing Corporation of New Zealand:
- “Depositor” means any individual or, in the case of a joint Account, any 2 individuals for whose benefit a Home Ownership Account has been opened and maintained:
- “Dwelling”, in relation to any depositor, means a house, unit, or flat suitable, in the opinion of the Corporation, for occupation exclusively or principally as a residence by the depositor, and the spouse and any dependants of the depositor who are living with the depositor:
- “Farm Ownership Account” means a Farm Ownership Account as defined in subsection (1) of section 2 of the Farm Ownership Savings Act 1974:
- “Home Ownership Account” means a savings account under that name with an authorised savings institution:
- “Interest subsidy” means a subsidy payable under section 7 of this Act:
- “Minister” means the Minister of Housing:
- “Purchase grant” means a grant payable under section 6 of this Act:
- “Qualifying date”, in relation to the Home Ownership Account of any depositor, means the date on which the balance of the Account (including interest) reaches \$250, or if, by reason of withdrawals from the Account, the balance reaches \$250 more than once, the latest date on which the balance reaches \$250:
- “Qualifying year”, in relation to the Home Ownership Account of any depositor, means a period of 12 months ending on the first, second, third, fourth, or fifth anniversary of the qualifying date in respect of that Account:
- “Terminating date”, in relation to any depositor, means—
- (a) The date of payment of a purchase grant to the depositor:
 - (b) The fifth anniversary of the qualifying date of the Home Ownership Account of the depositor,—whichever is the earlier.

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

- (a) By the purchase by the depositor, or jointly or in common by the depositor and his or her spouse, or by the depositor and any other depositor, of an estate in fee simple or an estate of leasehold in land, together with a dwelling erected thereon; or
- (b) By its erection on land which is held or is to be held by the depositor, or jointly or in common by the depositor and his spouse, or by the depositor and any other depositor, for an estate in fee simple or an estate of leasehold; or
- (c) In the case of a unit or flat, by the acquisition by the depositor, or jointly or in common by the depositor and his or her spouse, or by the depositor and any other depositor, of shares in a limited liability company or an undivided share or interest in the land on which the premises are erected or in any other way.

3. Eligible savings—(1) Subject to this section, for the purposes of this Act the amount of the eligible savings, in relation to the Home Ownership Account of any depositor, at any date shall be—

- (a) Where that date is before the qualifying date, the balance of the Account at that first-mentioned date:
- (b) Where that date is the qualifying date, \$250:
- (c) Where that date is during any qualifying year, the lesser of—
 - (i) The balance of the Account at that date:
 - (ii) The sum of the amount of the eligible savings on the day immediately preceding the first day of that qualifying year and \$1,000 (or such other amount as the Governor-General may, from time to time, by Order in Council declare):
- (d) Where that date is after the end of the qualifying year ending with the fifth anniversary of the qualifying date, the lesser of—
 - (i) The balance of the Account at that date:
 - (ii) The amount of the eligible savings at the end of that qualifying year.

(2) For the purposes of calculating the amount of the eligible savings, in relation to the Home Ownership Account of any depositor at any date, interest payable on money in

the Account, other than accumulated interest up to and including the qualifying date, shall not be taken into consideration.

(3) Where any amount is withdrawn from the 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

(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,—

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.

(4) Where a depositor withdraws the whole or any part of the balance in the depositor's Home Ownership Account for the acquisition of land on which to erect a dwelling, and, before the dwelling is erected, the depositor, with the prior written approval of the Corporation, sells that land and pays all or part of the net proceeds of sale into that Account within the time specified by the Corporation, the amount of the withdrawal, to the extent that it has been paid into the Account, shall be deemed not to have been withdrawn for the purpose of calculating the amount of the eligible savings of the depositor.

(5) Where a depositor withdraws the whole or any part of the balance in the depositor's Home Ownership Account to be used as a deposit under a conditional agreement to acquire a dwelling, and the agreement fails to become binding and the depositor pays all or part of the amount withdrawn into that Account as soon as practicable, the amount of the withdrawal, to the extent that it has been paid into the Account, shall be deemed not to have been withdrawn for the purposes of calculating the amount of the eligible savings of the depositor.

4. Notice of conditions—The terms and conditions upon which applications for benefits will be considered, benefits allowed and paid, and balances in Farm Ownership Accounts transferred to Home Ownership Accounts shall be in accord-

ance with regulations made under this Act or, in default of any such regulations and so far as any such regulations do not extend, in accordance with the written directions of the Minister.

5. Ineligible depositors—Notwithstanding anything in this Act, no depositor shall be eligible for any benefits where, in the opinion of the Corporation, the depositor or, in the case of a joint Home Ownership Account, either of the depositors—

- (a) Either solely or jointly or in common with any other person holds or has held any beneficial interest in a dwelling in New Zealand or elsewhere; or
- (b) Is or was the life tenant of a dwelling in New Zealand or elsewhere; or
- (c) Either solely or jointly or in common with his or her spouse 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
- (d) Either solely or jointly with any other person has previously received any benefits; or
- (e) Is the spouse of any person to whom paragraph (a) or paragraph (b) or paragraph (c) or paragraph (d) of this section would apply if that person were a depositor:

Provided that, 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.

6. Purchase grant—(1) Subject to this Act, where the Corporation is satisfied that the grant is to be used by a depositor in the acquisition of a dwelling in New Zealand, there shall be paid by the Corporation to the depositor a grant of an amount equal to 25 percent (or such other percentage as the Governor-General may, from time to time, by Order in Council declare) of the amount of the eligible savings of the depositor to the extent that the Corporation is satisfied that the eligible savings are to be used by the depositor in the acquisition of that dwelling.

(2) No purchase grant shall be paid to any depositor in respect of any eligible savings withdrawn earlier than 3 years after the qualifying date otherwise than pursuant to subsection (3) of this section.

(3) Where a depositor at any time uses the whole or part of his or her eligible savings in the acquisition of land (not being land to be purchased by instalments) on which to erect a dwelling, the amount so applied shall be eligible for a purchase grant if and when a dwelling is erected on the land in the same manner as if the amount so applied had been used by the depositor for the erection of the dwelling:

Provided that this subsection shall not apply in respect of any land which has any building erected on it unless the building is demolished or removed within 3 months from the date on which the land is acquired or the Corporation, in its discretion and in writing, permits the building, or any part of it, to be retained on the land.

(4) Where a depositor dies before he or she has been allowed a purchase grant, the personal representatives of the depositor may, to provide a dwelling for the widow or widower or any dependant of the depositor, apply for a purchase grant and the Corporation may deal with the application in the same manner, with any necessary modifications, as if the depositor had made the application.

(5) No depositor shall be paid more than one purchase grant or, subject to section 10 of this Act, have a purchase grant calculated by reference to eligible savings in more than one Home Ownership Account.

7. Interest subsidy—(1) Subject to this Act, there shall be paid by the Corporation to every depositor who has been paid a purchase grant in respect of a dwelling, and who has—

- (a) Borrowed money at interest to assist in the acquisition of the dwelling; or
- (b) Entered into an agreement, involving the payment of interest for a term in excess of 1 year, to purchase the dwelling,—

an interest subsidy under this section for each of the 5 years immediately succeeding the day of payment of the purchase grant.

(2) The interest subsidy under this section in relation to each depositor and each year shall be an amount equal to the sum of—

- (a) An amount equal to $2\frac{1}{2}$ percent of the amount by which the amount of his eligible savings at the terminating date exceeds the amount of his eligible savings at the date one year before the terminating date; and

- (b) An amount equal to 5 percent of the amount by which the amount of his eligible savings at the date one year before the terminating date exceeds the amount of his eligible savings at the date 2 years before the terminating date; and
- (c) An amount equal to $7\frac{1}{2}$ percent of the amount by which the amount of his eligible savings at the date 2 years before the terminating date exceeds the amount of his eligible savings at the date 3 years before the terminating date; and
- (d) An amount equal to 10 percent of the amount by which the amount of his eligible savings at the date 3 years before the terminating date exceeds the amount of his eligible savings at the date 4 years before the terminating date; and
- (e) An amount equal to $12\frac{1}{2}$ percent of the amount of his eligible savings at the date 4 years before the terminating date:

Provided that in no year shall the amount of the interest subsidy exceed an amount which reduces the average interest rate paid on all money owing in relation to the acquisition of the dwelling and the land on which the dwelling is erected below the rate of 3 percent per annum, or such other rate as the Governor-General may, from time to time, by Order in Council declare.

(3) Where a person who is receiving an interest subsidy in respect of money owing in relation to the acquisition of a dwelling dies, and the widow or widower or any dependant of that person continues to reside in that dwelling and to pay interest in respect of that money, that interest subsidy shall continue to be payable in the same manner, with any necessary modifications, as if that person had not died.

8. Preservation of benefits—Where, by reason of an Order in Council made pursuant to 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 of this Act, the benefits payable to depositors are reduced, in so far as those benefits are calculated by reference to the eligible savings of a depositor at the date the Order in Council comes into force, those benefits shall be calculated as if the Order in Council had not been made.

9. Disposition of dwelling within 5 years of payment of purchase grant—(1) No depositor shall dispose of, part possession with, let, or sublet the whole or any part of a dwelling in respect of the acquisition of which a purchase grant has been paid within 5 years of the date of payment of that grant except with the prior written consent of the Corporation, which may be given subject to such conditions as it thinks fit.

(2) Where any depositor fails to comply with any of the provisions of subsection (1) of this section or with any condition imposed by the Corporation under that subsection, the depositor shall be liable to repay to the Corporation all the benefits received by the depositor.

(3) In order to secure compliance with the foregoing provisions of this section, the Corporation may, in respect of the amount of any benefit, declare that amount to be a charge on the land concerned, and execute and register the charge under the Statutory Land Charges Act 1928.

(4) No fee shall be payable under any Act in respect of the registration of any document required for the purpose of registering or releasing (whether wholly or in part) any charge created under subsection (3) of this section.

10. Aggregation of benefits—The benefits payable under this Act may be aggregated when 2 depositors who have separate Home Ownership Accounts amalgamate their eligible savings for the purpose of acquiring a dwelling for their joint occupation.

11. Joint Accounts—Where 2 depositors have a joint Home Ownership Account and the Corporation is satisfied that by reason of circumstances which have arisen since the Account was opened it is impracticable for the depositors to acquire a dwelling for their joint occupation, it may in its discretion allow all or part of the money deposited in the Account to be transferred into a separate Home Ownership Account in the name of either depositor and to treat the money so transferred as deposited in the separate Account as at the date or dates it considers equitable for the purpose of calculating the eligible savings of either depositor.

12. Transferability—(1) Subject to this Act, balances in a Farm Ownership Account may be transferred to a Home Ownership Account.

(2) No balances in a Home Ownership Account with any authorised savings institution may be transferred to a Home Ownership Account with any other authorised savings institution:

Provided that where a depositor has a Home Ownership Account with an authorised savings institution which has a limited area of operation, and the depositor changes his place of residence to a place outside that limited area, the balance in his Home Ownership Account may, subject to such conditions as the Corporation may specify, either generally or in any particular case, be transferred to another authorised savings institution whose area of operation includes that new place of residence.

(3) Any transfer of a Home Ownership Account of any depositor from one authorised savings institution to another authorised savings institution pursuant to the proviso to subsection (2) of this section shall not affect the calculation of the eligible savings or the rights of the depositor.

13. Payment to Corporation—The Minister of Finance may from time to time, without further appropriation than this section, pay from the Consolidated Revenue Account to the Corporation any amount required for the payment of benefits allowable under this Act and for the costs of administration and other proper disbursements.

14. Exemption from income tax—All benefits shall be exempt from income tax.

15. Information to be supplied to Minister or Corporation—Notwithstanding anything in any other Act, every authorised savings institution shall furnish to the Minister or to the Corporation such information and particulars in relation to Home Ownership Accounts opened with the institution as the Minister may from time to time require to be furnished:

Provided that nothing in this section shall authorise the Minister to require any authorised savings institution to furnish any information which, in accordance with accepted banking practice, a banker is not obliged to disclose without the consent of the depositor concerned, unless that consent has been obtained.

16. Offences and penalties—(1) Every person commits an offence against this Act who—

- (a) Makes any statement knowing it to be false in any material particular or otherwise wilfully misleads or attempts to mislead the Corporation or any

officer of the Corporation or any other person in relation to any application for a benefit for himself or any other person:

(b) Being a person to whom a benefit has been paid under this Act—

(i) Fails, within a reasonable time after being required to do so, to supply in writing to the Corporation any information requested by the Corporation for the purpose of ascertaining whether or not the terms and conditions under which the benefit was paid have been fulfilled or whether or not any event has taken place by reason which the benefit or any part thereof is repayable:

Provided that no person shall be required to supply any information tending to incriminate himself; or

(ii) Supplies any information knowing it to be false in any material particular.

(2) Any person who commits an offence under subsection (1) of this section is liable on summary conviction—

(a) To imprisonment for a term not exceeding 6 months or to a fine not exceeding \$1,000; and

(b) To repay in full to the Corporation any benefits wrongfully obtained.

17. Regulations—(1) The Governor-General may from time to time, by Order in Council, make regulations in regard to any matter or for any purpose for which regulations are prescribed or contemplated by this Act or may be necessary for giving full effect to the provisions of this Act and for the due administration thereof.

(2) Without limiting the general power to make regulations conferred by subsection (1) of this section, regulations may be made under that subsection—

(a) Prescribing the mode of making application for benefits:

(b) Prescribing the procedure for payment of benefits:

(c) Prescribing offences in respect of the contravention of or non-compliance with any regulations made under this Act or any term or condition given pursuant to any such regulations, and prescribing penalties on summary conviction not exceeding \$200 in respect of any such offences.