



ANALYSIS

<p>Title</p> <ol style="list-style-type: none"> 1. Short Title 2. Interpretation 3. Ordinary Home Ownership Accounts 4. Eligible savings 5. Ineligible depositors 6. Purchase grant 7. Capitalisation of interest subsidy 8. New Part II (relating to Special Home Ownership Accounts) inserted 	<ol style="list-style-type: none"> 14d. Withdrawal and transfers from Special Home Ownership Account 14e. Reopening of Special Home Ownership Accounts 14f. Withdrawal certificate 14g. Ineligible depositors 14h. Breach of home ownership requirements <p>9. Heading and new sections inserted</p>
<p>PART II</p> <p>SPECIAL HOME OWNERSHIP ACCOUNTS</p> <ol style="list-style-type: none"> 14a. Special Home Ownership Accounts 14b. Existing Ordinary Home Ownership Accounts 14c. Transferability 	
<p>PART III</p> <p>GENERAL PROVISIONS</p> <ol style="list-style-type: none"> 14i. Available savings 14j. Loans 14k. Restrictions on dispositions 14l. Effect of dispositions with-in restriction period 14m. Charges and caveats 	

1976, No. 50

An Act to amend the Home Ownership Savings Act 1974

[25 November 1976]

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—This Act may be cited as the Home Ownership Savings Amendment Act 1976, and shall be read together with and deemed part of the Home Ownership Savings Act 1974 (hereinafter referred to as the principal Act).

2. Interpretation—(1) Section 2 (1) of the principal Act is hereby amended by inserting, in their appropriate alphabetical order, the following definitions:

“‘Commissioner’ means the Commissioner of Inland Revenue appointed under the State Services Act 1962; and includes any person for the time being authorised (whether by delegation by him or otherwise) to exercise or perform any of his powers or functions:

“‘Home ownership requirements’, in relation to a depositor, means the use for housing purposes of money withdrawn by him, pursuant to a withdrawal certificate, from his Special Home Ownership Account, and the compliance by him with section 14K of this Act:

“‘Housing purposes’, in relation to a depositor, means the acquisition by him of a dwelling in New Zealand or land (not being land to be purchased by instalments) in New Zealand on which to erect a dwelling being in either case a dwelling for his occupation:

“‘Ordinary Farm Ownership Account’ means an Ordinary Farm Ownership Savings Account as defined in section 2 (1) of the Farm Ownership Savings Act 1974:

“‘Ordinary Home Ownership Account’ means a savings account under that name with an authorised savings institution:

“‘Special Farm Ownership Account’ means a Special Farm Ownership Account as defined in section 2 (1) of the Farm Ownership Savings Act 1974:

“‘Special Home Ownership Account’ means a savings account under that name with an authorised savings institution:

“‘Withdrawal certificate’ means a certificate issued by the Corporation under section 14F of this Act.”

(2) Section 2 (1) of the principal Act is hereby further amended by repealing the definition of the term “Home Ownership Account”, and substituting the following definition:

“‘Home Ownership Account’ means an Ordinary Home Ownership Account or a Special Home Ownership Account:”.

(3) Section 2 (1) of the principal Act is hereby further amended by adding to the definition of the term "purchase grant" the words "and includes any additional purchase grant payable under section 7A of this Act".

(4) Section 2 (1) of the principal Act is hereby further amended by repealing the definition of the term "Farm Ownership Account".

3. Ordinary Home Ownership Accounts—(1) The principal Act is hereby further amended by inserting, after section 2, the following heading:

"PART I

"ORDINARY HOME OWNERSHIP ACCOUNTS".

(2) The principal Act is hereby further amended—

- (a) By inserting in sections 3, 4, 5, 6 (5), 10, and 11, before the words "Home Ownership Account" wherever they occur, in each case the word "Ordinary":
- (b) By omitting from section 12 the words "a Home Ownership Account" wherever they occur, and substituting in each case the words "an Ordinary Home Ownership Account":
- (c) By omitting from section 12 (1) the words "a Farm Ownership Account", and substituting the words "an Ordinary Farm Ownership Account":
- (d) By omitting from the proviso to section 12 (2) the words "his Home Ownership Account", and substituting the words "his Ordinary Home Ownership Account".

4. Eligible savings—(1) Section 3 (1) (c) (ii) of the principal Act is hereby amended, as from its commencement, by omitting the expression "\$1,000", and substituting the expression "\$2,000".

(2) Section 3 of the principal Act is hereby further amended by adding to subsection (4) and to subsection (5) in each case the words "or for the purpose of determining the qualifying date of that Account".

5. Ineligible depositors—Section 5 of the principal Act is hereby amended by adding, after the proviso, the following proviso:

“Provided also that for the purposes of paragraphs (a) and (c) of this subsection 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 been entitled) of not more than 5 years certain.”

6. Purchase grant—Section 6 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsection:

“(3) Where a depositor at any time uses any of his eligible savings in the acquisition by him of land (not being land to be purchased by instalments) in New Zealand on which to erect a dwelling for his occupation, then, if and when the dwelling is erected on the land,—

“(a) The amount of the eligible savings so used shall be deemed not to have been withdrawn from the depositor’s Home Ownership Account for the purpose of calculating the amount of the depositor’s eligible savings, or for the purpose of determining the qualifying date in relation to the Account; and

“(b) The amount so used shall, in accordance with section 6 of this Act, be eligible for a purchase grant; and

“(c) When the purchase grant is paid it shall be deemed to have been paid in respect 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 removed from the land or demolished within 3 months from the date on which the land is acquired by the depositor or unless the Corporation, in its discretion and in writing and subject to any conditions which it may see fit to impose, permits the building or any part of it to remain on the land.”

7. Capitalisation of interest subsidy—The principal Act is hereby amended by inserting, after section 7, the following section:

“7A. (1) Every depositor who is entitled to receive an interest subsidy under section 7 of this Act may, when applying for a purchase grant under section 6 of this Act, elect to receive an additional purchase grant under this section in lieu of the interest subsidy.

“(2) The method of calculating the amount of any additional purchase grant shall be determined by the Governor-General from time to time by Order in Council.”

8. New Part II (relating to Special Home Ownership Accounts) inserted—The principal Act is hereby further amended by inserting, after section 14, the following Part:

“PART II

“SPECIAL HOME OWNERSHIP ACCOUNTS

“14A. **Special Home Ownership Accounts**—(1) Subject to this Act, on and after the 1st day of November 1976 any person may open in his own name and for his own purpose (but not jointly or in common with any other person) a Special Home Ownership Account and the provisions of the Land and Income Tax Act 1954 relating to special accounts shall apply to that Account in accordance with their tenor.

“(2) No person who has, in relation to an Ordinary Home Ownership Account, been paid either solely or jointly with any other depositor any benefit or who has, in relation to a Special Home Ownership Account, withdrawn any amount from that Account pursuant to a withdrawal certificate (not being an amount which has subsequently been redeposited in full and in respect of which the withdrawal certificate has been cancelled pursuant to section 14F (4) of this Act) shall open a Special Home Ownership Account.

“(3) No person who is a depositor in relation to a Special Home Ownership Account or who has withdrawn any amount from a Special Home Ownership Account pursuant to a withdrawal certificate (not being an amount which has subsequently been redeposited in full and in respect of which the withdrawal certificate has been cancelled pursuant to section 14F (4) of this Act) shall open an Ordinary Home Ownership Account.

“(4) No person who is a depositor in relation to an Ordinary Home Ownership Account with any authorised savings institution shall open a Special Home Ownership Account with any other authorised savings institution.

“(5) Where any person is a depositor in relation to an Ordinary Home Ownership Account jointly with any other person, he shall not open a Special Home Ownership Account unless the other person has given up his interest in the joint Account or the joint Account is severed into separate Ordinary Home Ownership Accounts:

“Provided that where any Ordinary Home Ownership Account is so dealt with, the qualifying date (if any) of the sole Account or Accounts so created shall not, by reason thereof, be changed.

“(6) Except for interest which may from time to time accrue, no deposits shall, for the purposes of this Act, be made in any Special Home Ownership Account after the end of the qualifying year ending with the fifth anniversary of the qualifying date of the Account.

“14B. **Existing Ordinary Home Ownership Accounts**—Where at the time a depositor opens a Special Home Ownership Account he is also a depositor in relation to an Ordinary Home Ownership Account—

“(a) If there is in respect of the Ordinary Home Ownership Account a qualifying date, that date shall be the qualifying date in respect of the Special Home Ownership Account; and

“(b) Except for interest which may from time to time accrue and be payable in respect of the balance in the Ordinary Home Ownership Account, no other deposits shall be made thereafter in the Ordinary Home Ownership Account.

“14c. **Transferability**—(1) Subject to this Act, balances in a Special Farm Ownership Account with an authorised savings institution may be transferred to a Special Home Ownership Account with the same authorised savings institution:

“Provided that this subsection shall not apply unless the whole of the balance in the Special Farm Ownership Account is transferred and that Account is closed.

“(2) Where the balance in any Special Farm Ownership Account is transferred pursuant to subsection (1) of this section, the authorised savings institution shall forthwith inform the Commissioner accordingly.

“(3) Balances in a Special Home Ownership Account with any authorised savings institution may be transferred to a Special Home Ownership Account with any other authorised savings institution in the same manner, with any necessary modifications, as an Ordinary Home Ownership Account may be transferred pursuant to subsections (2) and (3) of section 12 of this Act.

“14D. **Withdrawal and transfers from Special Home Ownership Account**—(1) Subject to this section and section 14c of this Act and section 14c of the Farm Ownership Savings Act 1974, no money shall be withdrawn or transferred from a Special Home Ownership Account.

“(2) A depositor may at any time withdraw or transfer any amount from his Special Home Ownership Account if,

after the amount is withdrawn or transferred, the balance of the Account is not reduced to an amount less than the closing balance of the Account at the 31st day of March immediately preceding the date of that withdrawal or transfer.

“(3) In any case where subsection (2) of this section does not apply—

“(a) Where the withdrawal or transfer (not being a transfer allowed under section 14c of this Act) is made otherwise than pursuant to a withdrawal certificate, the balance of the Special Home Ownership Account is to be withdrawn and the Account closed:

“(b) Where the withdrawal or transfer is made pursuant to a withdrawal certificate, the amount of the balance of the Account is to be withdrawn and the Account closed unless by the terms and conditions of the withdrawal certificate a lesser amount is to be withdrawn and the Account is to remain open.

“(4) Where any Special Home Ownership Account is closed pursuant to subsection (3) of this section, the authorised savings institution with which the Account is held shall forthwith notify the Commissioner and the Corporation in writing, stating—

“(a) The name of the depositor:

“(b) The amount of the withdrawal which resulted in the closure of the Account:

“(c) The closing balance of the Account as at the 31st day of March immediately preceding the date of the closure:

“(d) The amount stated in the withdrawal certificate (if any):

“Provided that the authorised savings institution shall not notify the Corporation if the withdrawal was made otherwise than pursuant to a withdrawal certificate.

“14E. Reopening of Special Home Ownership Accounts—

(1) Where—

“(a) A Special Home Ownership Account is closed pursuant to a withdrawal certificate issued under section 14F (1) of this Act; and

“(b) The amount withdrawn is used by the depositor as a deposit under a conditional agreement to acquire a dwelling and the agreement fails to become binding,—

the Corporation may determine that the Account shall be reopened, subject to the depositor paying into the Account

the whole of the amount withdrawn or such part as the Corporation determines, and the Corporation shall notify the authorised savings institution and the Commissioner accordingly.

“(2) Where—

“(a) A Special Home Ownership Account is closed pursuant to a withdrawal certificate issued under section 14F (2) of this Act; and

“(b) The amount withdrawn was used by the depositor for the acquisition of land on which to erect a dwelling, and, before the dwelling is erected, the depositor, with the written approval of the Corporation, sells the land,—

the Corporation may determine that the Account shall be reopened subject to the depositor paying into the Account the whole of the proceeds of sale or such part as the Corporation determines, and the Corporation shall notify the authorised savings institution and the Commissioner accordingly.

“(3) Where any Special Home Ownership Account is reopened pursuant to subsection (1) or subsection (2) of this section, the authorised savings institution shall notify the Corporation and the Commissioner accordingly.

“14F. **Withdrawal certificate**—(1) Subject to this Act, the Corporation shall, on application made to it in writing by any depositor in relation to a Special Home Ownership Account not earlier than 3 years after the qualifying date of the Account, issue to him a withdrawal certificate for the balance of the Account or a specified amount to be stated in the certificate if it is satisfied that that balance or that amount is to be used by the depositor for housing purposes.

“(2) Subject to this Act and notwithstanding subsection (1) of this section, the Corporation may, on application made to it in writing by any depositor in relation to a Special Home Ownership Account not earlier than 1 year after the qualifying date of the Account, issue to him a withdrawal certificate for the balance of the Account or a specified amount to be stated in the certificate if it is satisfied that that balance or that amount is to be used by the depositor in the acquisition of land (not being land to be purchased by instalments) on which to erect a dwelling for his occupation:

“Provided that this subsection shall not apply in respect of any land which has any building erected thereon unless the Corporation is satisfied that the building is to be demolished or removed within 3 months after the date on which the land

is acquired, or the Corporation in its discretion permits the building or any part of it to be retained on the land.

“(3) Any withdrawal certificate may be issued subject to such terms and conditions as are set forth in the certificate and which the Corporation considers it necessary or desirable to impose to ensure that any amount withdrawn from a Special Home Ownership Account pursuant to the certificate is used by the depositor for the purposes for which the certificate was issued.

“(4) Where any depositor has, pursuant to a withdrawal certificate, withdrawn any amount from his Special Home Ownership Account, and redeposits the whole or part of that amount in his Account, the withdrawal certificate shall be cancelled to the extent of the amount redeposited.

“(5) Where a depositor dies before the depositor has been issued with a withdrawal certificate, the personal representatives of the depositor may apply to the Corporation for a withdrawal certificate for such amount as is to be used to provide a dwelling for the widow or widower or any dependant of the depositor, and the Corporation may deal with the application in the same manner, with any necessary modification, as if the depositor had made the application, and the other provisions of this Act shall apply accordingly.

“(6) Any withdrawal certificate shall cease to have any force or effect on or after any date that may be specified therein in that behalf or, if no such date is specified therein, on the expiration of 3 months after the date of the certificate.

“(7) Every withdrawal certificate shall require the authorised savings institution to close the Special Home Ownership Account of the depositor unless, in the case of a withdrawal certificate issued under subsection (2) of this section, the Corporation specifies that the Account may remain open.

“14g. **Ineligible depositors**—Notwithstanding anything in this Act, no depositor shall be eligible to obtain a withdrawal certificate in respect of a Special Home Ownership Account where, in the opinion of the Corporation, the depositor would not be eligible for any benefits under Part I of this Act if the Special Home Ownership Account were an Ordinary Home Ownership Account:

“Provided that, having regard to the special circumstances of any case, the Corporation may, in its discretion issue a withdrawal certificate, either in respect of the whole or part of the balance in the Account, and conditionally or unconditionally, to any depositor.

“14H. **Breach of home ownership requirements**—Where the Corporation at any time knows or has reason to believe or suspect that a depositor who has been issued a withdrawal certificate has failed to fulfil any home ownership requirements to which he may be or may become subject, the Corporation shall forthwith in writing inform the Commissioner accordingly.”

9. Heading and new sections inserted—(1) The principal Act is hereby further amended by inserting, after section 14H (as inserted by section 8 of this Act), the following heading and sections:

“PART III

“GENERAL PROVISIONS

“14i. **Available savings**—(1) For the purposes of this Act, but subject to subsection (2) of this section, the amount of the available savings in relation to any Home Ownership Account shall be the lesser of:

“(a) The total of—

“(i) All eligible savings:

“(ii) All amounts withdrawn pursuant to a withdrawal certificate:

“(iii) In the case of an Ordinary Home Ownership Account, the amount of any purchase grant paid or payable in respect of that account,—used or to be used by the depositor for housing purposes:

“(b) The sum of \$5,000 (or such other sum as the Governor-General may, from time to time, by Order in Council declare) :

“Provided that if a depositor is a depositor in relation to an Ordinary Home Ownership Account and also a depositor in relation to a Special Home Ownership Account the available savings shall, in relation to both Accounts, not exceed in the aggregate the amount so prescribed in this paragraph.

“(2) Notwithstanding subsection (1) of this section, there shall be no available savings in relation to any Home Ownership Account—

“(a) In the case of an Ordinary Home Ownership Account, where the depositor is ineligible to receive any benefits; and

“(b) In relation to a Special Home Ownership Account, to the extent that any amounts are withdrawn from the Account otherwise than pursuant to a withdrawal certificate.

“14J. Loans—(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 occupation, the Corporation may, in its discretion and subject to this Act, advance to that institution, and that institution may borrow from the Corporation, an equivalent amount, not exceeding the amount of the depositor’s available savings, for the purpose of lending it to the depositor.

“(2) Sections 26, 27, 28, and 29 of the Housing Corporation Act 1974 shall apply to any amount to be advanced, pursuant to subsection (1) of this section, by the Corporation to any authorised savings institution:

“Provided that, and notwithstanding section 25 (1) of that Act, the Corporation may, pursuant to the foregoing provisions of this section and in its discretion, make any advance to any authorised savings institution without taking any security for the amount of the advance.

“(3) Notwithstanding the foregoing provisions of this section, the Governor-General may from time to time, by Order in Council, specify the terms and conditions subject to which,—

“(a) The Corporation may make advances to authorised savings institutions:

“(b) Authorised savings institutions may make loans to depositors.

“(4) Notwithstanding subsection (3) of this section:

“(a) The Corporation may, when advancing, pursuant to this section, any amount to any authorised savings institution, make the advance on such terms and conditions (not inconsistent with those specified in any Order in Council referred to in that subsection), as the Corporation may think fit to impose:

“(b) An authorised savings institution may, when making any loan to which this section applies to any depositor, make the loan on such terms and conditions (not inconsistent with those specified in any Order in Council referred to in that sub-

section), as the institution may think fit to impose.

“(5) Every advance made, pursuant to the foregoing provisions of this section, by the Corporation to an authorised savings institution, and all costs, charges, legal expenses and other expenses incurred by the Corporation with regard to the making of the advance shall be deemed to be guaranteed, under section 24 of the **Housing Corporation Act 1974**, by the Minister of Finance in favour of the Corporation in respect of any loss arising out of the advance or with regard to such interest, costs, charges or expenses.

“14k. **Restrictions on dispositions**—(1) For the purposes of this Act the term ‘restriction period’ means—

“(a) In relation to an Ordinary Home Ownership Account of any depositor, the period of 5 years commencing on the date on which a purchase grant is paid to the depositor:

“(b) In relation to a Special Home Ownership Account of any depositor, the period of 5 years commencing on—

“(i) If the withdrawal was made pursuant to a withdrawal certificate to enable the depositor to acquire a dwelling, the date on which the dwelling was acquired by the depositor; or

“(ii) If the withdrawal was made pursuant to a withdrawal certificate to enable the depositor to acquire land upon which to erect a dwelling, the date on which the construction of that dwelling was completed.

“(2) No depositor shall, without on each occasion the prior written consent of the Corporation, sell, lease, sublease, part with the possession of, mortgage, encumber or otherwise alienate or dispose of (at law or in equity) the whole or any part of any dwelling or of any land referred to in subsection (1) of this section prior to the expiration, in relation to that dwelling or that land, of the restriction period:

“Provided that the foregoing provisions of this subsection shall not apply to—

“(a) Any memorandum of mortgage or other encumbrance granted by the depositor over his estate or interest in any such dwelling or in any such land to secure any loan made to him by the Corporation, or by the Rural Banking and Finance Corporation of New Zealand, or, pursuant to this Act, by any authorised savings institution:

“(b) Any settlement of such dwelling as a joint family home under the provisions of the Joint Family Homes Act 1964:

“(c) Any charge granted by the depositor over his estate or interest in such dwelling to secure any advance made to him under the Family Benefits (Home Ownership) Act 1964:

“(d) Any transmission of the depositor’s estate or interest in any such dwelling or in any such land.

“14L. **Effect of dispositions within restriction period**—If a depositor, contrary to section 14K of this Act, and within the restriction period, sells, leases, subleases, parts with the possession of, mortgages, encumbers or otherwise alienates or disposes of (at law or in equity) the whole or any part of the dwelling or land referred to in that section the depositor shall forthwith—

“(a) Refund to the Corporation all benefits which he has received in respect of his deposits in his Ordinary Home Ownership Account; and

“(b) Pay to the Commissioner any withdrawal tax which, under Part VIIb of the Land and Income Tax Act 1954, he is liable to pay in respect of amounts withdrawn from his Special Home Ownership Account.

“14M. **Charges and caveats**—(1) To secure any money which may, pursuant to this Act, or Part VIIb of the Land and Income Tax Act 1954, be payable or become in the future payable to the Corporation or to the Commissioner by a depositor and otherwise to secure the due performance by the depositor of all obligations which are or may be imposed upon the depositor by or pursuant to this Act, the Corporation may either—

“(a) Execute and register, against the title to the depositor’s dwelling or land referred to in section 14K of this Act pursuant to the Land Charges Registration Act 1928 and this section, a charge in such sum as the Corporation may in its discretion consider appropriate; or

“(b) Lodge a caveat in favour of the Corporation against such title pursuant to the Land Transfer Act 1952 and this section.

“(2) To register any such charge or to lodge any such caveat it shall not be necessary to produce to a District Land Registrar any duplicate or copy of the certificate of title or of any other instrument of title to the land concerned.

“(3) Where any such charge is so registered or any such caveat is so lodged, it shall be the duty of the District Land Registrar to enter a memorial on the certificate of title or other instrument of title to the land concerned, (and in addition to any other memorial which, pursuant to the Land Transfer Act 1952 or any other Act, he is required to enter thereon), that the land concerned is subject to this Act.

“(4) Subject to section 14K of this Act, while any such charge or caveat is so registered, lodged, or recorded on or against the title to the land concerned, no dealing with such land shall, to the extent to which such land is comprised in such title, be registered by the District Land Registrar without, on each occasion, the Corporation’s prior written consent, which consent may be given either unconditionally or subject to such conditions which the Corporation may deem fit to impose.

“(5) No such charge or caveat shall be discharged, released, modified, or varied except by the Corporation or pursuant to an Order of the Supreme Court of New Zealand.

“(6) No stamp duty or registration fee shall be payable under any Act in respect of the execution or registration of any such charge or caveat or in respect of any discharge, release, modification, or variation thereof.”

(2) Section 9 of the principal Act is hereby consequentially repealed.

This Act is administered in the Housing Corporation of New Zealand.
