

# CLAUSE NOTES

## HOMEBUILDER GRANTS BILL 2020

### PART I - PRELIMINARY

- Clause 1** This Act may be cited as the *HomeBuilder Grants Act 2020*.
- Clause 2** This Act is taken to have commenced on 4 June 2020.
- Clause 3** This clause sets out the defined terms used in the Bill.
- Clause 4** This clause provides that a home is a building affixed to land that may lawfully be used as a place of residence, and is, in the opinion of the Commissioner a suitable building for use as a place of residence.
- Clause 5** This clause defines the contracts that are considered HomeBuilder grant contracts for the purpose of this Act.

A contract is a HomeBuilder grant contract if it is a contract that relates to the building of a home on land from the inception of the building work to the point where the home is ready for occupation and, if for any reason the work to be performed under such a contract is not completed, includes any further contract under which the work is to be completed.

A HomeBuilder grant contract is also a contract that relates to the building of a home, if the building commenced on or after 4 June 2020; if, at the time the contract is entered into, building work on the home has commenced but the home is not completed to the point where the home is ready for occupation; a builder is to complete the home to the point where the home is ready for occupation; and includes any further contract under which the work is to be completed if, for any reason, the work to be performed under a contract referred to is not completed.

A HomeBuilder grant is also a contract for the purchase of a new home in the State, where the building of the new home commenced on or after 4 June 2020.

- Clause 6** This clause provides that the Commissioner may take into account one or more of the following when determining the market value of land for the purposes of this Act: an independent valuation of the land; a valuation of the land under the *Valuation of Land Act 2001*; the last sale price for the land, including the last price at which a contract for sale was entered into for the land; any other matter the Commissioner considers relevant.

**Clause 7** Subclause (1) provides that a person is an owner of a home if the person has a relevant interest in the land on which the home is built.

Subclause (2) provides what is a relevant interest in land.

Subclause (3) provides for instances where an interest is not a relevant interest.

Subclause (4) provides that the Commissioner of State Revenue may recognise an interest as a relevant interest even though the interest may not conform with subclauses (2) and (3).

Subclause (5) provides that the Commissioner may, subject to recognising a non-conforming interest, impose conditions on the payment of the grant to ensure its recovery if belief about future conduct in recognising the interest are later proved incorrect.

**Clause 8** This clause provides that a person is a spouse if the persons are legally married or are in a significant relationship within the meaning of the *Relationships Act 2003*.

**Clause 9** This clause defines the term *transaction value* for the purpose of this Act.

Subclause (1) provides the transaction value for different contract types.

If the transaction is a contract referred to in clause 5(a) or (b) and the contract includes the purchase of land, the transaction value is the sum of the total consideration payable under the contract, including any consideration payable under secondary contracts specified in the contract, plus the total cost of materials to be used in work performed under the contract or a secondary contract, if the materials are not specified in the contract.

If the transaction is a contract referred to in clause 5(a) or (b) and the contract does not include the purchase of land, the transaction value is the sum of the: total consideration payable under the contract, including any consideration payable under secondary contracts specified in the contract; the total cost of materials to be used in work performed under the contract or a secondary contract, if the materials are not specified in the contract; and the market value of the land on the day the parties enter into the contract.

If the transaction is a contract referred to in clause 5(c), the transaction value is the sum of the total consideration payable under the contract.

If the transaction is a contract referred to in clause 18(2)(b), the transaction value is the sum of: the total consideration payable under the contract, including any consideration payable under secondary contracts specified in the contract; and the total cost of materials to be used in work performed under the contract, if the materials are not specified in the contract.

Subclause (2) provides that, despite subclause (1), if the Commissioner is satisfied that the transaction value of a transaction calculated under that subclause is not reflective of the market value of the transaction, the Commissioner may determine the transaction value of the transaction by such other means that the Commissioner considers appropriate.

## PART 2 - TASMANIAN HOMEBUILDER GRANT

**Clause 10** This clause provides that the amount of the Tasmanian HomeBuilder grant is \$20 000.

**Clause 11** Subclause (1) provides the conditions under which the Tasmanian HomeBuilder grant is payable on application.

Subclause (2) provides that only one Tasmanian HomeBuilder grant is payable in respect of the same eligible transaction and the same land.

Subclause (3) provides that subclause (2) does not apply in respect of a previous grant of the Tasmanian HomeBuilder grant if the previous grant is paid back in full.

**Clause 12** Subclause (1) provides the eligibility criteria for an applicant to be eligible for the Tasmanian HomeBuilder grant.

Subclause (2) provides that the Commissioner may approve a lesser period of occupation if satisfied that there are good reasons why the applicant cannot comply with the requirement to occupy the home for a continuous period of six months.

Subclause (3) provides that the Commissioner may approve a greater period if satisfied that there are good reasons why the applicant cannot comply with the requirement to begin to occupy the home as a principal place of residence within the 12 month period immediately after the completion of the relevant eligible transaction.

Subclause (4) provides that a decision of the Commissioner under subclause (2) or (3) may be made at any time unless a decision on the application has been reversed or varied under clause 24.

Subclause (5) provides that the eligibility criterion - the applicant has not previously been paid the Tasmanian HomeBuilder grant in respect of another eligible transaction, does not apply in respect of a previous grant of the Tasmanian HomeBuilder grant if the previous grant is paid back in full.

**Clause 13** Subclause (1) provides the criteria for a transaction to be an eligible transaction for the purposes of the Tasmanian HomeBuilder grant.

Subclause (2) provides for transactions that are not eligible transactions for the purpose of the Tasmanian HomeBuilder grant.

**Clause 14** Subclause (1) provides that the Minister, by order and on one or more occasion, may amend the Act to: omit the amount specified in clause 10 and substitute another amount; omit the date on which the period ends as specified in clause 13(1)(a)(i) and substitute a later date; and alter the date by which an application for the Tasmanian HomeBuilder grant may be made as specified in clause 20(2)(c)(ii).

Subclause (2) provides that sections 47(3), (3A), (4), (5), (6) and (7) of the *Acts Interpretation Act 1931* apply to an order under subclause (1) as if the order were regulations within the meaning of that Act.

Subclause (3) provides that an order under subclause (1) is a statutory rule for the purposes of the *Rules Publication Act 1953* and is not an instrument of legislative character for the purposes of the *Subordinate Legislation Act 1992*.

## PART 3 - COMMONWEALTH HOMEBUILDER GRANT

- Clause 15** Subclause (1) provides that the amount of a Commonwealth HomeBuilder grant is \$25 000.
- Subclause (2) provides that, despite subclause (1), if the National Partnership ceases to be in force, the amount of a Commonwealth HomeBuilder grant is zero on, and from, the cessation of the National Partnership.
- Clause 16** Subclause (1) provides the conditions under which the Commonwealth HomeBuilder grant is payable on application.
- Subclause (2) provides that only one Commonwealth HomeBuilder grant is payable in respect of the same eligible transaction and the same land.
- Subclause (3) provides that subclause (2) does not apply in respect of a previous grant of the Commonwealth HomeBuilder grant if the previous grant is paid back in full.
- Subclause (4) provides that a Commonwealth HomeBuilder grant is payable in respect of a transaction in respect of which the Tasmanian HomeBuilder grant, or the first home owner grant, is paid or payable.
- Clause 17** Subclause (1) provides the eligibility criteria for an applicant to be eligible for the Commonwealth HomeBuilder grant.
- Subclause (2) provides that the Commissioner may approve a lesser period of occupation if satisfied that there are good reasons why the applicant cannot comply with the requirement to occupy the home for a continuous period of six months.
- Subclause (3) provides that the Commissioner may approve a greater period if satisfied that there are good reasons why the applicant cannot comply with the requirement to begin to occupy the home as a principal place of residence within the 12 month period immediately after the completion of the relevant eligible transaction.
- Subclause (4) provides that a decision of the Commissioner under subclause (2) or (3) may be made at any time unless a decision on the application has been reversed or varied under clause 28.
- Subclause (5) provides that the eligibility criterion - the applicant has not previously been paid the Commonwealth HomeBuilder grant in respect of another eligible transaction, does not apply in respect of a previous grant of the Commonwealth HomeBuilder grant if the previous grant is paid back in full.
- Clause 18** Subclause (1) provides the criteria for a transaction to be an eligible transaction for the purposes of the Commonwealth HomeBuilder grant.
- Subclause (2) provides the criteria for a contract to be a relevant contract for the purposes of the Commonwealth HomeBuilder grant.
- Subclause (3) provides for transactions that are not an eligible transactions for the purpose of Commonwealth HomeBuilder grant.

**Clause 19** Subclause (1) provides that, if the National Partnership is amended on or after this Act is taken to commence, the Minister may, by order, make such amendments as are necessary to ensure that this Act is consistent with the National Partnership.

Subclause (2) provides that an order under subclause (1) may only include such amendments as are required to ensure that this Act is consistent with the National Partnership; and may, as a result of an amendment that is required to be made under paragraph (a), amend the operation of the Tasmanian HomeBuilder grant so as to ensure consistency with the Commonwealth HomeBuilder grant; and may be made so as to have effect from the day on which the amendment to the National Partnership commences or such a later day as specified in the order.

Subclause (3) provides that an order under subclause (1) is a statutory rule for the purposes of the *Rules Publication Act 1953* and is not an instrument of legislative character for the purposes of the *Subordinate Legislation Act 1992*.

#### PART 4 - APPLICATION PROCESS

**Clause 20** Subclause (1) provides that an application for a grant is to be made to the Commissioner.

Subclause (2) provides that a claim may be made for either or both grants and must be made in an approved form, contain the information required by the Commissioner and be made after the signing of a contract and before 1 January 2021.

Subclause (3) provides that an applicant must provide any further information required by the Commissioner.

Subclause (4) provides that an applicant's documentation must be verified if required by the Commissioner.

Subclause (5) provides that an applicant may amend an application with the Commissioner's consent.

**Clause 21** Subclause (1) provides that all interested persons must be applicants.

Subclause (2) provides that an interested person is a person who is, or will be, on completion of the eligible transaction to which an application under this Act relates, an owner of the relevant home except such a person who is excluded from the application of this clause under the regulations.

**Clause 22** Subclause (1) provides that an application may be made, on behalf of a person under a legal disability, by a guardian of the person.

Subclause (2) provides that the person under the legal disability for which the application is made under subclause (1) is to be regarded as the applicant.

**Clause 23** Subclause (1) provides that the Commissioner must authorise the payment of the grant if the Commissioner is satisfied that a grant is payable.

Subclause (2) provides that the Commissioner may authorise the payment of a grant under this Act before completion of an eligible transaction if satisfied that there are good reasons to do so and the interests of the State and the Commonwealth can be adequately protected by conditions requiring repayment of the grant if the eligible transaction is not completed within a reasonable time.

**Clause 24** Subclause (1) provides that a grant under this Act is to be paid by electronic funds transfer, by cheque or in any other way the Commissioner thinks appropriate.

Subclause (2) provides that a grant is to be paid to the applicant who applied for the grant or another person to whom the applicant directs in writing that the grant be paid.

**Clause 25** Subclause (1) provides that the Commissioner may authorise payment of a grant under this Act in anticipation of compliance with the residence requirement.

Subclause (2) provides that, if a grant is paid under this Act in anticipation of compliance with the residence requirement, the payment is made on the condition that, if the residence requirement is not complied with, the applicant must within 14 days after the relevant date give written notice of that fact to the Commissioner and repay the amount of the grant. A fine not exceeding 100 penalty units may apply for non-compliance.

Subclause (3) provides that the relevant date in subclause (2) is the earlier of the end of the period allowed for compliance with the residence requirement or the date on which it first becomes apparent that the residence requirement will not be complied with.

Subclause (4) provides that, if an applicant ceases to retain his or her relevant interest in the land before satisfying the residence requirement, the applicant must, within 14 days after ceasing to retain his or her relevant interest give written notice of that fact to the Commissioner and repay the amount of the grant. A fine not exceeding 100 penalty units applies for non-compliance.

**Clause 26** Subclause (1) provides that the Commissioner may authorise the payment of a grant under this Act on conditions that the Commissioner considers appropriate.

Subclause (2) provides that a condition imposed by the Commissioner on the payment of a grant under this Act may require the applicant to give notice of non-compliance with the condition within a period stated in the condition and to repay the grant within a period stated in the condition.

Subclause (3) provides that, where a joint application for a grant is made, then each applicant is individually liable to comply with any conditions imposed by the Commissioner and that compliance with a requirement under subclause (2) by one applicant is taken to be compliance by both applicants.

Subclause (4) provides that a person must comply with a condition imposed. A fine not exceeding 100 penalty units applies for non-compliance.

- Clause 27** Subclause (1) provides that an application under this Act does not lapse because an applicant dies before the application is decided.
- Subclause (2) provides that if an applicant under this Act dies before the application is decided, if there was more than one applicant in respect of the application, the application is to be dealt with as if the surviving applicant was the sole applicant. In any other case, a grant, if payable on the application, is to be paid to the estate of the deceased.
- Subclause (3) provides that, if a deceased applicant for a grant had not met the residence requirement, but the Commissioner is satisfied that the applicant intended to do so, the residence requirement is satisfied.
- Clause 28** Subclause (1) provides that the Commissioner may vary or reverse a decision made if satisfied that the decision is incorrect, the decision was made on the basis of false or misleading information, an applicant failed to provide information that was relevant to the making of the decision on the application, or the applicant failed to comply with any condition or eligibility requirement upon which the grant was made.
- Subclause (2) provides that a decision cannot be varied or reversed under this clause more than five years after the decision was made.
- Clause 29** Subclause (1) requires the Commissioner to give an applicant notice of a decision on an application for a grant or a decision to vary or reverse an earlier decision on the application.
- Subclause (2) provides that the payment of the grant is sufficient notice of the decision to authorise the grant without conditions.
- Subclause (3) provides that, if the decision is to refuse an application or vary an earlier decision, the Commissioner must state the reasons for the decision in the notice.
- Clause 30** Subclause (1) provides that an applicant may lodge a written notice of objection with the Commissioner if the applicant is dissatisfied with the Commissioner's decision on the application, to vary or reverse a decision, or to impose a penalty under clause 45 in respect of the application.
- Subclause (2) requires an applicant to fully state the grounds of an objection in the notice of objection.
- Subclause (3) provides that a notice of objection must be lodged within 60 days after the date of the notice of the decision.
- Subclause (4) provides that, if the Commissioner is satisfied that an objector has a reasonable excuse for failing to lodge an objection within the 60-day period, the Commissioner may extend the time for lodging the objection.

**Clause 31** Subclause (1) defines the term *delegate* as a person to whom the Commissioner has delegated powers to consider an objection under clause 30.

Subclause (2) provides that the Commissioner may confirm, vary or reverse a decision after considering a notice of objection in respect of that decision.

Subclause (3) requires the Commissioner to give the person who lodged the objection a written notice of the decision on the objection, setting out the reasons for the decision.

Subclause (4) requires the Commissioner to ensure that a delegate who considers and decides on an objection was not involved in making the decision to which the objection relates and is not and was not a subordinate of a person who was involved in making the decision.

**Clause 32** Subclause (1) provides that a person who is dissatisfied with the Commissioner's decision in respect of an objection may apply to the Magistrates Court (Administrative Appeals Division) for a review of that decision.

Subclause (2) provides that such an application must be lodged within 60 days after the written notice of the decision is given.

**Clause 33** This clause provides that a court or administrative review body does not have jurisdiction or power to consider any question concerning a decision of the Commissioner, except as provided in this Division.

**Clause 34** Subclause (1) provides that the Commissioner may act on the basis that a decision is correct until an objection or review of the decision is decided.

Subclause (2) provides that the Commissioner must take any necessary action to give effect to a decision once an objection or review is decided.

## PART 5 - INVESTIGATIONS

**Clause 35** This clause defines the term *authorised investigation*.

**Clause 36** Subclause (1) provides that the Commissioner may conduct an authorised investigation.

Subclause (2) provides that the Commissioner may, at the request of an authority responsible for administering a corresponding law, carry out an authorised investigation for the purposes of the corresponding law.

Subclause (3) provides that the Commissioner may delegate powers of investigation to an authority responsible for the administration of a corresponding law or a person nominated by such an authority.

**Clause 37** Subclause (1) provides that the Commissioner may, for the purposes of an authorised investigation, require a person by written notice to provide written information, attend before the Commissioner or a nominee of the Commissioner to answer questions or produce a document to the Commissioner that is relevant to the investigation.

Subclause (2) provides that the Commissioner may require that information to be verified on oath or by statutory declaration.

Subclause (3) provides that a person must not, without reasonable excuse, refuse or fail to comply with a requirement of the Commissioner. A fine not exceeding 100 penalty units may apply for non-compliance.

Subclause (4) provides that when attending before the Commissioner or a nominee of the Commissioner, a person must not refuse or fail to answer, without reasonable excuse, a question relevant to the investigation. A fine not exceeding 100 penalty units may apply for non-compliance.

**Clause 38** Subclause (1) provides that an authorised officer may exercise a number of powers for the purposes of an authorised investigation. The powers include the ability to: inspect premises; require a person to produce a document, or operate a device to produce the information in understandable form; retain a document for inspection, or make a copy of it or take extracts from it; require a person to answer questions relevant to the investigation; and require a person to give the authorised officer any other assistance that may be reasonable in the circumstances.

Subclause (2) provides that an authorised officer may enter premises for the purposes of carrying out an authorised investigation, with the consent of the occupier of the premises or under the authority of a warrant.

Subclause (3) provides that a magistrate may issue a warrant authorising an authorised officer to enter premises, including the use of force that may be reasonably necessary in the circumstances, if satisfied that the warrant is reasonably necessary for the administration or enforcement of this Act.

Subclause (4) provides that an authorised officer may be accompanied by any assistants the authorised officer reasonably requires to carry out an authorised investigation.

Subclause (5) provides that a person must not hinder or obstruct an authorised officer and their assistants when carrying out an authorised investigation; use abusive, threatening or insulting language; refuse or fail, without reasonable excuse, to comply with a requirement made by an authorised officer; or answer a question, put by an authorised officer, under this clause knowing that the answer is false or misleading. A fine not exceeding 100 penalty units may apply for non-compliance.

**Clause 39** Subclause (1) provides that, if a person is required to answer a question or to produce a document in the course of an authorised investigation, it is not an excuse for non-compliance that the answer might incriminate the person or to make the person liable to a penalty.

Subclause (2) provides that if the person answers the question, or produces the document, after objecting to the requirement to do so on the grounds of self-incrimination, the evidence is not admissible in proceedings for an offence or for the imposition of a penalty other than proceedings under this Act.

**Clause 40** Subclause (1) defines the term *record* as any document or any other information kept in any form or device.

Subclause (2) provides that, for the purposes of an authorised investigation, an authorised officer may inspect and take copies of a public record kept under an Act, without payment of any fee required under that Act.

## PART 6 - MISCELLANEOUS

**Clause 41** Subclause (1) provides a definition of *change in transaction value* for the purpose of this clause.

Subclause (2) provides that, within 14 days after becoming aware of a change in transaction value of an eligible transaction, a person must notify the Commissioner of the change. A fine not exceeding 100 penalty units may apply for non-compliance.

Subclause (3) provides that subclause (2) does not apply in respect of an eligible transaction if the transaction value of the transaction on completion of the transaction does not exceed \$750 000 and if the eligible transaction is a renovation remains greater than \$150 000.

Subclause (4) provides that, if the Commissioner is notified or otherwise becomes aware of a variation, the Commissioner may require a grant to be repaid, if the Commissioner is satisfied that the variation means that a person was not eligible for the grant.

**Clause 42** Subclause (1) provides that a person must not, in giving any information under this Act, dishonestly make a statement that is false or misleading; omit any matter from a statement if it causes the statement to be false or misleading; or provide a document that is false or misleading. A fine not exceeding 150 penalty units may apply for non-compliance.

Subclause (2) provides that a person must not, in giving any information under this Act, intentionally or negligently make a statement that is false or misleading; omit any matter from a statement if it causes the statement to be false or misleading; or provide a document that is false or misleading. A fine not exceeding 100 penalty units may apply for non-compliance.

**Clause 43** Subclause (1) provides that a certificate signed by the Commissioner stating that a grant was paid under this Act to the person named in the certificate, on the date specified in the certificate, is admissible in legal proceedings as evidence of the payment.

Subclause (2) provides that a copy of a notice issued by the Commissioner to impose a penalty under this Act is admissible in legal proceedings as evidence of the imposition of the penalty.

Subclause (3) provides that a copy of a notice issued by the Commissioner that requires the payment or repayment of a specified amount is admissible in legal proceedings as evidence that the requirement was made and the amount specified in the notice was outstanding at the date the notice was issued.

**Clause 44** This clause provides that proceedings for an offence under this Act may only be commenced within three years after the date on which the offence is alleged to have been committed.

**Clause 45** Subclause (1) provides that the Commissioner may, by written notice, require an applicant, or former applicant, to repay an amount paid if: the amount was paid in error; the Commissioner varies or reverses the decision; or the Commissioner requires the amount to be repaid as the result of a variation advised by the applicant.

Subclause (2) provides that the Commissioner, in a written notice, may impose a penalty not exceeding the amount to be repaid if the applicant or former applicant contravenes clause 41 or 42 in respect of the application and as a result of the contravention, a grant is paid or payable under the application.

Subclause (3) provides that, if an applicant or former applicant fails to make a repayment required, the Commissioner may, by written notice, impose a penalty not exceeding the amount required to be repaid under this clause.

Subclause (4) provides that, if an amount is paid in error to a third party, the Commissioner may, by written notice, require the third party to repay the amount to the Commissioner.

**Clause 46** Subclause (1) provides that this clause applies to any amount required to be repaid by an applicant or former applicant, any amount of a penalty imposed and any amount a third party is required to repay.

Subclause (2) provides that the liability arising from a requirement to pay, or repay, an amount is a joint and several liability if it attaches to two or more persons.

Subclause (3) provides that, if an applicant that is liable to pay, or repay, an amount has an interest in the home for which a grant under this Act was sought, the liability is a first charge on the applicant's interest in that home.

Subclause (4) provides that the Commissioner may recover, as a debt due to the Crown, an amount to which this clause applies as well as any reasonable costs and expenses incurred by the Commissioner in connection with the recovery or attempted recovery.

Subclause (5) provides that, if a person fails to pay all, or any part, of an amount to which this clause applies within the specified time, the Commissioner, by written notice, may require the person to pay interest on the unpaid amount.

Subclause (6) provides that, if the Commissioner requires a person to pay interest on an amount under subclause (5), the person is liable to pay interest on the amount that is unpaid on a daily basis from the end of the last day for payment specified in the notice until the day it is paid, at the interest rate specified in section 35 of the *Taxation Administration Act 1997*.

Subclause (7) provides that, despite subclause (6), interest is not payable if it would be less than \$20.

Subclause (8) provides that the Commissioner may enter into an arrangement for the payment of an outstanding liability by instalments.

Subclause (9) provides that the Commissioner may write off the whole, or any part, of a liability to pay an amount, if satisfied that any action, or further action, to recover the outstanding amount or interest is impracticable or unwarranted.

**Clause 47** Subclause (1) provides that the Commissioner, by written notice, may require any of the following other persons to pay any amount due by an applicant: a person from whom any money is due or accruing or may become due to the applicant; a person who holds, or may subsequently hold, money for or on account of the applicant; a person who holds, or may subsequently hold, money on account of some other person for payment to the applicant; and a person who has authority from some other person to pay money to the applicant.

Subclause (2) provides that a copy of a notice served on a person under subclause (1) is to be served on the applicant to which the notice relates.

Subclause (3) provides that the amount of money required to be paid by a person under subclause (1) is all the money held or due or authorised to be paid if it does not exceed the amount payable by the applicant to the Commissioner, or if the money exceeds the amount payable sufficient money to pay the amount payable in other cases.

Subclause (4) provides that a person required to pay money under this clause must pay the money to the Commissioner on the later of the following: on receipt of the notice; when the money is held by the person; or within the period specified in the notice under subclause (1).

Subclause (5) provides that a person required to pay money to the Commissioner under this clause must comply with the requirement. A penalty for non-compliance with this clause may apply, which in the case of a body corporate is a fine not exceeding 100 penalty units, and in any other case, a fine not exceeding 20 penalty units.

Subclause (6) provides that, if the whole or any part of an amount specified in a notice under subclause (1) is paid by another person, the Commissioner is to promptly notify the person, on whom the notice was served, of the payment and the notice is taken to be amended accordingly.

**Clause 48** This clause provides that the Commissioner is responsible to the Minister for the administration of the scheme for the payment of grants under this Act.

**Clause 49** Subclause (1) provides that the Commissioner may delegate functions related to the administration of a grant under this Act.

Subclause (2) provides that the Commissioner may enter into an agreement (an *administration agreement*) with a financial institution or other person under which: the Commissioner delegates functions related to the administration of a grant under this Act; and the financial institution or other person is required to carry out the delegated functions in accordance with specified conditions.

Subclause (3) provides that the conditions of an administration agreement may include prescribed conditions.

Subclause (4) provides that a financial institution or other person, who enters into an administration agreement with the Commissioner, must comply with the terms and conditions of the agreement. A fine not exceeding 500 penalty units may apply for non-compliance.

Subclause (5) provides that the Commissioner may, at any time, revoke an administration agreement or any other delegation granted under this clause.

**Clause 50** This clause provides that Commissioner may appoint persons as authorised officers for the purposes of this Act.

**Clause 51** Subclause (1) provides that this clause applies to the Commissioner, an authorised officer and a delegate of the Commissioner who is a State Service officer or State Service employee.

Subclause (2) provides that no personal liability attaches to a person to whom this clause applies for an honest act or omission in the performance, or purported performance, of functions under this Act.

Subclause (3) provides that a liability that would, but for subclause (2), lie against a person to whom this clause applies, lies instead against the Crown.

**Clause 52** Subclause (1) provides that, in this clause, *protected information* is defined as information obtained in the course of work related to the administration of this Act about an application for a grant under this Act.

Subclause (2) provides that, for the purposes of this clause, a person is subject to a duty of confidentiality if the person is, or has been, engaged in work related to the administration of this Act, or the person has obtained access to protected information, whether directly or indirectly, from a person who is, or has been, engaged in work related to the administration of this Act.

Subclause (3) provides that a person who is subject to a duty of confidentiality under this clause must not disclose protected information except as permitted under subclause (4). A fine not exceeding 100 penalty units may apply for non-compliance.

Subclause (4) provides that protected information may be disclosed at the request, or with the consent, of the person to whom the information relates or another person acting on behalf of that person. Protected information may also be disclosed in connection with the administration, or enforcement, of this Act or a corresponding law, or a taxation law of the Commonwealth or a State or Territory. Protected information may also be disclosed to the Commonwealth if the protected information relates to the grant of, or an application for, the Commonwealth HomeBuilder grant, the disclosure of the information is at the request of the Commonwealth and the disclosure of the information is in accordance with the National Partnership. Further, protected information may be disclosed for the purposes of legal proceedings or as prescribed under the regulations.

**Clause 53** Subclause (1) provides that the Governor may make regulations for the purposes of this Act.

Subclause (2) provides that regulations made under this Act may authorise any matter to be determined, applied or regulated by the Commissioner and may be made subject to conditions or so as to apply differently according to matters, limitations or restrictions specified in the regulations. The regulations may provide that a contravention of, or a failure to comply with, any of the regulations is an offence and provide for the imposition of a fine not exceeding 25 penalty units.

Subclause (3) provides that regulations made under this Act may be made so as to have effect from the day on which this Act is taken to have commenced or such later day as is specified in the regulations.

- Clause 54** This clause provides that, until provision is made in relation in this Act by order under section 4 of the *Administrative Arrangements Act 1990*, the administration of this Act is assigned to the Minister for Finance and the department responsible for administration of the Act is the Department of Treasury and Finance.
- Clause 55** This clause provides that the legislation specified in Schedule I is amended as specified in that Schedule.

#### SCHEDULE I - CONSEQUENTIAL AMENDMENTS

- Clause I** This clause amends section 7 of the *First Home Owner Grant Act 2000* to insert a new subsection that provides a first home owner grant is not payable in respect of a transaction if the Tasmanian HomeBuilder grant, under the *HomeBuilder Grants Act 2020*, has been paid in respect of the transaction.