

# Home Ownership and Other Legislation Amendment Bill 2026

## Statement of Compatibility

### Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 38 of the *Human Rights Act 2019* (Human Rights Act), I, David Janetzki, Treasurer, Minister for Energy and Minister for Home Ownership make this statement of compatibility with respect to the Home Ownership and Other Legislation Amendment Bill 2026 (the Bill).

In my opinion, the Bill is compatible with the human rights protected by the Human Rights Act. I base my opinion on the reasons outlined in this statement.

### Overview of the Bill

The Bill will amend the following legislation administered by the Commissioner of State Revenue (Commissioner):

- the *Duties Act 2001* (Duties Act), the *First Home Owner Grant and Other Home Owner Grants Act 2000* (FHOG Act) and the *Land Tax Act 2010* (Land Tax Act) to clarify the application of revenue and grants legislation for participants of the Queensland Boost to Buy and Commonwealth Help to Buy shared equity programs;
- the Duties Act, to:
  - expand the concept of ‘vacant land’, for the purposes of the transfer duty first home vacant land concession, to include land with certain existing structures on it;
  - update the transfer duty exemption for particular vestings of dutiable property to reflect commencement of the *Property Law Act 2023*;
  - correct a minor drafting error in the reassessment provision of the additional foreign acquirer duty concession for eligible build to rent developments;
  - extend availability of the vehicle registration duty exemption for particular service persons to eligible current defence force members in addition to former defence force members; and
  - update the vehicle registration duty exemption for primary producers and concessional vehicle registration duty rate for special vehicles to reflect commencement of the *Transport Operations (Road Use Management-Vehicle Registration) Regulation 2021*;
- the FHOG Act and the Duties Act to ensure that homes that have previously been sold under certain builders’ terms arrangements are ‘new homes’ for the purposes of the First Home Owner Grant (FHOG) and transfer duty first home new home relief;
- the FHOG Act to restore the intended policy and practice relating to the interpretation of ‘good reasons’ for the purposes of the discretions to vary or exempt an applicant from the residence requirements for FHOG (FHOG measure);
- the *Payroll Tax Act 1971* (Payroll Tax Act) to confirm that the Commissioner may exclude subgroups from payroll tax grouping, subject to certain conditions;

- the *Taxation Administration Act 2001* (Taxation Administration Act) to clarify that if a taxpayer is seeking an appeal or review of related tax matters, then the appeal or review of those related tax matters is to proceed to either the Supreme Court or Queensland Civil and Administrative Tribunal (QCAT), consistent with the original intention of the framework for disputes of tax assessments;
- the Taxation Administration Act and *Taxation Administration Regulation 2022* to remove obsolete references to collection and exchange boxes; and
- the Taxation Administration Act, Duties Act, Land Tax Act and Payroll Tax Act to correct certain outdated cross-references to the Taxation Administration Act.

## Human Rights Issues

### Human rights relevant to the Bill (Part 2, Division 2 and 3 *Human Rights Act 2019*)

In my opinion, the human rights that are relevant to the Bill are the right to freedom of movement (section 19) and right to property (section 24) in respect of the FHOG measure.

For the reasons outlined below, I am of the view that the Bill is compatible with these human rights.

The other amendments contained in the Bill have no adverse impacts on the human rights protected by the Human Rights Act.

### **If human rights may be subject to limitation if the Bill is enacted – consideration of whether the limitations are reasonable and demonstrably justifiable (section 13 *Human Rights Act 2019*)**

#### FHOG measure

The FHOG Act provides for payment of a grant to first home buyers who have entered into and completed an eligible transaction and who satisfy certain eligibility criteria. An eligible transaction is a contract to purchase or build a new home, or the building of a new home by an owner-builder.

To be eligible for the FHOG, amongst other things, an applicant must reside in the home as their principal place of residence for a continuous period of at least six months, commencing within 1 year after completion of the eligible transaction (residence requirements). The Commissioner has discretions to vary these periods or exempt an applicant from the residence requirements where there are good reasons.

In a 2024 decision, the QCAT held that ‘good reasons’, in exercising the discretion to shorten or exempt an applicant from the 6-month continuous occupation requirement, did not require circumstances outside the control of the applicant. This broadened the interpretation of ‘good reasons’ for FHOG administration, thereby expanding the scope of the discretions beyond their intent and existing practice at that time.

The Bill amends the FHOG Act to restore the intended policy and practice of ‘good reasons’ for FHOG administration. The amendments will clarify that ‘good reasons’, in exercising the discretions for the residence requirements, means circumstances outside the control of the applicant preventing compliance with these requirements (e.g. ill health of the applicant or destruction of the home).

While the Bill does not amend the FHOG Act to create new residence requirements, it will narrow the circumstances in which the discretions to the existing residence requirements will be exercised. As a result, the FHOG measure may limit the human rights of freedom of movement (section 19 Human Rights Act) and property rights (section 24 Human Rights Act).

(a) the nature of the right

The *right to freedom of movement* provides that every person lawfully within Queensland has the right to move freely within Queensland, to enter or leave Queensland, and choose where they live. The right to move freely within Queensland means that a person cannot be arbitrarily forced to remain in, or move to or from, a particular place.

Eligibility for the FHOG is conditional upon applicants complying with the residence requirements, which restricts their ability to determine where they live for the relevant periods. While this restriction already exists under the FHOG Act, the FHOG measure limits this right by narrowing the circumstances in which the Commissioner's discretion to vary or exempt an applicant from the residence requirements will be exercised.

The *right to property* protects the right of all persons to own property (alone or with others) and provides that people have a right to not be arbitrarily deprived of their property. The ability to own and protect property historically underpins many of the structures essential to maintaining a free and democratic society based on human dignity, equality and freedom.

Arbitrary deprivation of property in the human rights context refers to conduct that is capricious, unpredictable or unjust, and also refers to interferences which are unreasonable in the sense of not being proportionate to a legitimate aim that is sought. The term 'deprived' is not defined by the Human Rights Act, however deprivation in this sense is considered to include the substantial restriction on a person's use or enjoyment of their property, to the extent that it substantially deprives a property owner of the ability to use their property or part of that property (including enjoying exclusive possession of it, disposing of it, transferring it or deriving profits from it).

Under the FHOG Act, the Commissioner may refuse payment of the FHOG or seek to recover the grant from applicants who have failed to satisfy the residence requirements. While these provisions already exist in the FHOG Act, by narrowing the application of the Commissioner's discretion to vary or exempt the applicant from the residence requirements, the FHOG measure limits this right by widening the circumstances in which the Commissioner may refuse payment of the FHOG or seek to recover the grant from applicants who have failed to satisfy the residence requirements.

(b) the nature of the purpose of the limitation to be imposed by the Bill if enacted, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The intention of the FHOG program is to assist first home buyers into their first home and boost the housing construction sector. Conditions are imposed on eligibility to ensure that this generous relief is only available in the particular circumstances for which it was intended.

Relevantly, the residence requirements help prevent abuse of the FHOG program by applicants entering into transactions for investment or non-residential purposes as well as applicants

moving in only for a short period before leasing or selling the home. As such, the residence requirements support the intent of the FHOG program to encourage and help home ownership, rather than investment.

Further, it is necessary for there to be appropriate revenue protection measures in place to ensure that the FHOG program is operating as intended and that the grant is only provided to eligible persons. The FHOG Act provides for the Commissioner to refuse payment of the FHOG or require applicants to repay the grant where they have failed to satisfy the eligibility requirements (including the residence requirements) to help ensure the grant is only provided to eligible persons.

Against that backdrop, the purpose of clarifying the interpretation of good reasons is to maintain the effectiveness of the residence requirements, by ensuring that the discretions can only be exercised in the intended circumstances. In the absence of the FHOG measure, the broader interpretation of good reasons may result in payment of the FHOG in circumstances outside the intent of the FHOG program.

This purpose is consistent with a free and democratic society based on human dignity, equality and freedom because it ensures that:

- the FHOG is only available for eligible applicants as intended, maintaining the integrity of the FHOG program; and
- community expectations are met that, where a person does not satisfy the conditions of the FHOG, there is an appropriate framework in place to facilitate refusal of payment or require its repayment, and to ensure the protection of public revenue.

(c) the relationship between the limitation to be imposed by the Bill if enacted, and its purpose, including whether the limitation helps to achieve the purpose

Restoring the intended policy and practice of ‘good reasons’ will ensure the discretions can only be exercised in the intended circumstances, thereby protecting the intended operation of the residence requirements and, by extension, the intent of the FHOG program to assist home ownership. This will necessarily impact the right to freedom of movement and property rights to the extent that it will narrow the circumstances where the residence requirements will be varied or waived (meaning an applicant would need to satisfy the standard residence requirements to be eligible for the FHOG instead), and therefore result in refusal to pay the grant or require repayment of the grant in a wider range of circumstances where applicants have failed to satisfy these requirements.

This is necessary to ensure that the benefit of the FHOG is only provided to eligible applicants as intended and uphold the integrity of the FHOG program. Further, given this beneficial grant program is government funded, it will facilitate the continued and effective management of public revenue.

(d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the Bill

There are no less restrictive and reasonably available ways to achieve the purposes of the FHOG measure.

Given the intent of the FHOG program, eligibility requirements that are directed to ensuring that the applicant actually does reside in the property as their principal place of residence are necessary. On this basis, the discretions are only intended to be exercised in limited circumstances, so as to not undermine the operation of the residence requirements.

It is relevant that the residence requirements are longstanding and do not legally prevent an applicant from residing elsewhere during the relevant period, but merely specify the consequences for doing so. Further, the FHOG measure does not implement nor amend the residence requirements themselves, but rather discretions to these requirements, which by their very nature are only intended to apply by exception. Importantly, the FHOG measure also does not remove the discretions in their entirety, it simply clarifies when they can be exercised.

In addition, safeguards are already in place, in that applicants have the right to lodge an objection if they are dissatisfied with a decision of the Commissioner not to exercise his discretion on the basis that there were not good reasons to do so and therefore refuse payment or require repayment of the FHOG for failing to comply with the residence requirements. Also, if dissatisfied with the decision on objection, applicants can request review of that decision with QCAT.

(e) the balance between the importance of the purpose of the Bill, which, if enacted, would impose a limitation on human rights and the importance of preserving the human rights, taking into account the nature and extent of the limitation

In my opinion, the potential impact of the FHOG measure on an individual's right of freedom of movement and property rights is outweighed by the importance of maintaining the effectiveness of the residence requirements for the integrity of the FHOG program and the benefits to the State and citizens in ensuring that the FHOG is only available as intended.

In reaching this view, it is significant that:

- the FHOG is a voluntary program, it is a decision for an applicant as to whether they apply for the grant and eligibility requirements are publicly available, allowing applicants to make an informed decision about their individual circumstances;
- the residence requirements and provisions enabling refusal of the FHOG or its recovery where these requirements have not been met are already in place, the FHOG measure does not add any new requirements;
- the discretions are, by their very nature, only intended to apply in exceptional circumstances and will continue to exist, the FHOG measure simply ensures they operate as intended; and
- applicants have rights under the FHOG Act to object and request review, where they are dissatisfied with a decision of the Commissioner not to exercise his discretion and therefore refuse payment or require repayment of the FHOG.

(f) any other relevant factors

Nil.

## **Conclusion**

In my opinion, the Bill is compatible with human rights under the Human Rights Act because it limits a human right only to the extent that is reasonable and demonstrably justifiable in a free and democratic society based on human dignity, equality and freedom.

**THE HONOURABLE DAVID JANETZKI MP**  
TREASURER  
MINISTER FOR ENERGY AND MINISTER FOR HOME OWNERSHIP

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