



A2777510

Mr Matt Cowdrey OAM MP
Member for Colton
2A / 130 Valetta Road
FULHAM GARDENS SA 5024

Treasurer
Level 8
State Administration Centre
200 Victoria Square
Adelaide SA 5000
GPO Box 2264
Adelaide SA 5001
DX 56203 Victoria Square
Tel 08 8226 1866
treasurer.dtf@sa.gov.au

colton@parliament.sa.gov.au

Dear Mr Cowdrey

APPLICATION UNDER THE *FREEDOM OF INFORMATION ACT 1991*

I refer to your internal review application made pursuant to the Freedom of Information Act 1991 (the Act) on 13 March 2023 in response to this agency's initial determination of a deemed refusal. As a determination was not finalised before the statutory 30-day time period required by the FOI Act, the original application was deemed refused under Section 9(2)(b) of the Act.

Your initial application sought access to:

"Please provide all records and documents, including but limited to emails, text messages, diary entries, and any forms of correspondence, that pertain to communication between the Treasurer and the Department of Treasury and Finance as well as any correspondence that pertain to communication between the Treasurer's Chief of Staff and/or the Treasurer's advisers and/or administrative staff and the Department of Treasury and Finance, in relation to the HomeBuilder Grant program. Between 21 March 2022 to 8 February 2023."

Upon review, you agreed to amend the application on 6 March 2023 to seek access to:

"Please provide all records and documents, including but limited to emails, text messages, diary entries, and any forms of correspondence, that pertain to communication between the Treasurer and the Department of Treasury and Finance as well as any correspondence between the Treasurer's Chief of Staff and/or the Treasurer's advisers and/or administrative staff and the Department of Treasury and Finance, in relation to the HomeBuilder Grant program. Between 21 March 2022 to 8 February 2023."

I have made the following determination on internal review.

An extensive search was conducted within this office, with a total of 68 documents found that fall within scope of your application.

I grant you access in part to 68 documents; copies of which are enclosed.

I have granted partial access to documents 1-68 under clause 12(1) of Schedule 1 of the FOI Act.

Clause 12 – Secrecy Provisions

- (1) A document is an exempt document if it contains matter the disclosure of which would constitute an offence against an Act.*

Disclosure of certain information in documents 1-68 would be unreasonable as they contain taxpayer information of multiple HomeBuilder Grant (HBG) applicants. Clause 12(1) of Schedule 1 to the Act states that a document is exempt from release if 'it contains matter the disclosure of which would constitute an offence against an Act'. Section 6A of the First Home and Housing Construction Grants Act 2000 (the "FHHCG Act") provides that an application for the HBG is taken as though an application for the First Home Owners Grant (the FHOG), albeit with differing eligibility criteria as described. As such, the confidentiality provisions at section 41 of the FHHCG Act apply to both the FHOG and the HBG.

Section 41 of the FHHCG Act provides that a duty of confidentiality applies to the protected information in relation to applicants and their spouses or domestic partners. Section 41(3) of the FHHCG Act prevents the release of protected information unless the consent of the persons to whom the information relates, or at the request of a person acting on behalf of the persons to whom the information relates, is obtained. Further circumstances allowing disclosure under section 41 of the FHHCG Act are not applicable.

As no indication has been made that your application for access to these documents was made on behalf of the HBG applicants, I have determined the information in these documents exempt pursuant to clause 12(1).

I have granted partial access to documents 2, 17 and 54 under clause 7(1)(c) of Schedule 1 of the FOI Act.

Clause 7 – Documents affecting business affairs

- (1) A document is an exempt document—*
- (b) if it contains matter—*
 - (i) consisting of information (other than trade secrets) that has a commercial value to any agency or any other person; and*
 - (ii) the disclosure of which—*
 - (A) could reasonably be expected to have an adverse effect on those affairs or to prejudice the future supply of such information to the Government or to an agency; and*
 - (B) would, on balance, be contrary to the public interest; or*
 - (c) if it contains matter—*
 - (i) consisting of information (other than trade secrets or information referred to in paragraph (b)) concerning the business, professional, commercial or financial affairs of any agency or any other person; and*
 - (ii) the disclosure of which—*
 - (A) could reasonably be expected to have an adverse effect on those affairs or to prejudice the future supply of such information to the Government or to an agency; and*
 - (B) would, on balance, be contrary to the public interest.*

Documents 2, 17 and 54 also detail the financial contracts and business affairs of building companies contracted by HomeBuilder Grant applicants. In particular, the information in these documents discuss the financial management and licencing limitations that were

experienced by building companies. If disclosed, would effectively advertise these financial and licensing matters and potentially diminish any future business opportunities or sway public confidence to competitors. I therefore determine it is exempt pursuant to clause 7(1)(c).

I have granted partial access to documents 8, 14, 21, 22, 24, 25, 34, 40, 50, 52, 54, 60 and 64 under clause 10 of Schedule 1 of the FOI Act.

Clause 10 – Documents subject to legal professional privilege

(1) A document is an exempt document if it contain matter that would be privileged from production in legal proceedings on the ground of legal professional privilege.

Documents 8, 14, 21, 22, 24, 25, 34, 40, 50, 52, 54, 60 and 64 contain Crown advice sought by RevenueSA to advise on the legality of the HomeBuilder applications. Crown advice is subject to legal professional privilege. I, therefore, determine this exempt pursuant to clause 10 to the Act.

Please note, in compliance with Premier and Cabinet Circular PC045 - *Disclosure Logs for Non-Personal Information Released through Freedom of Information (PC045)*, the Department of Treasury and Finance (DTF) is now required to publish a log of all non-personal information released under the Act.

In accordance with this Circular, any non-personal information determined for release as part of this application, may be published on the DTF website. A copy of PC045 can be found at the following address: <https://dpc.sa.gov.au/resources-and-publications/premier-and-cabinet-circulars>. Please visit the website for further information.

If you are unhappy with this determination you are entitled to exercise your rights of external review with the Ombudsman SA. Alternatively, you can apply to the South Australian Civil and Administrative Tribunal (SACAT). If you wish to seek a review, you must do so within 30 calendar days of receiving this internal review determination.

For more information about seeking a review, please contact the Ombudsman SA on telephone (08) 8226 8699 or SACAT on 1800 723 767.

Yours sincerely



Hon. Stephen Mullighan MP
Treasurer
Principal Officer

29 March 2023

Schedule of Documents

A277510 - Mr Matt Cowdrey OAM MP

"Please provide all records and documents, including but limited to emails, text messages, diary entries, and any forms of correspondence, that pertain to communication between the Treasurer and the Department of Treasury and Finance as well as any correspondence between the Treasurer's Chief of Staff and/or the Treasurer's advisers and/or administrative staff and the Department of Treasury and Finance, in relation to the HomeBuilder Grant program. Between 21 March 2022 to 8 February 2023."

Doc. No.	Date	Description of Document	Determination Recommendation	Exemption Clause
1	18/08/2022	Email from RevenueSA	Released in part	12(1) - Disclosure would constitute an offence against an Act
2	21/08/2022	Minute	Released in part	12(1) - Disclosure would constitute an offence against an Act 7(1)(c)(i)(ii)(A)(B) - Contains information concerning the business, professional, commercial or financial affairs of any agency or person & contrary to public interest
3	13/10/2022	Email from RevenueSA	Released in part	12(1) - Disclosure would constitute an offence against an Act
4	3/02/2023	Email from RevenueSA	Released in part	12(1) - Disclosure would constitute an offence against an Act
5	25/08/2022	Email from RevenueSA	Released in part	12(1) - Disclosure would constitute an offence against an Act
6	5/09/2022	Minute	Released in part	12(1) - Disclosure would constitute an offence against an Act
7	28/10/2022	Email from RevenueSA	Released in part	12(1) - Disclosure would constitute an offence against an Act
8	28/10/2022	Minute	Released in part	12(1) - Disclosure would constitute an offence against an Act 10(1) - Subject to legal professional privilege
9	30/08/2022	Email from RevenueSA	Released in part	12(1) - Disclosure would constitute an offence against an Act
10	21/09/2022	Minute	Released in part	12(1) - Disclosure would constitute an offence against an Act
11	21/09/2022	Minute	Released in part	12(1) - Disclosure would constitute an offence against an Act
12	8/09/2022	Email from RevenueSA	Released in part	12(1) - Disclosure would constitute an offence against an Act
13	24/11/2022	Email from RevenueSA	Released in part	12(1) - Disclosure would constitute an offence against an Act
14	19/12/2022	Minute	Released in part	12(1) - Disclosure would constitute an offence against an Act 10(1) - Subject to legal professional privilege

Schedule of Documents

Doc. No.	Date	Description of Document	Determination Recommendation	Exemption Clause
15	9/09/2022	Email from RevenueSA	Released in part	12(1) - Disclosure would constitute an offence against an Act
16	21/09/2022	Minute	Released in part	12(1) - Disclosure would constitute an offence against an Act
17	10/10/2022	Minute	Released in part	12(1) - Disclosure would constitute an offence against an Act
				7(1)(c)(i)(ii)(A)(B) - Contains information concerning the business, professional, commercial or financial affairs of any agency or person & contrary to public interest
18	29/09/2022	Email from RevenueSA	Released in part	12(1) - Disclosure would constitute an offence against an Act
19	6/10/2022	Minute	Released in part	12(1) - Disclosure would constitute an offence against an Act
20	15/12/2022	Email from RevenueSA	Released in part	12(1) - Disclosure would constitute an offence against an Act
21	21/12/2022	Minute	Released in part	12(1) - Disclosure would constitute an offence against an Act
				10(1) - Subject to legal professional privilege
22	17/10/2022	Minute	Released in part	12(1) - Disclosure would constitute an offence against an Act
				10(1) - Subject to legal professional privilege
23	10/10/2022	Email from RevenueSA	Released in part	12(1) - Disclosure would constitute an offence against an Act
24	13/10/2022	Email from RevenueSA	Released in part	12(1) - Disclosure would constitute an offence against an Act
				10(1) - Subject to legal professional privilege
25	25/10/2022	Minute	Released in part	12(1) - Disclosure would constitute an offence against an Act
				10(1) - Subject to legal professional privilege
26	13/10/2022	Email from RevenueSA	Released in part	12(1) - Disclosure would constitute an offence against an Act
				10(1) - Subject to legal professional privilege
27	25/10/2022	Minute	Released in part	12(1) - Disclosure would constitute an offence against an Act
				10(1) - Subject to legal professional privilege
28	21/10/2022	Minute	Released in part	12(1) - Disclosure would constitute an offence against an Act
				10(1) - Subject to legal professional privilege
29	20/12/2022	Email from RevenueSA	Released in part	12(1) - Disclosure would constitute an offence against an Act
				10(1) - Subject to legal professional privilege
30	9/01/2023	Minute	Released in part	12(1) - Disclosure would constitute an offence against an Act

Schedule of Documents

Doc. No.	Date	Description of Document	Determination Recommendation	Exemption Clause
31	10/11/2022	Email from RevenueSA	Released in part	12(1) - Disclosure would constitute an offence against an Act
32	16/11/2022	Minute	Released in part	12(1) - Disclosure would constitute an offence against an Act
33	24/11/2022	Email from RevenueSA	Released in part	12(1) - Disclosure would constitute an offence against an Act
34	19/12/2022	Minute	Released in part	12(1) - Disclosure would constitute an offence against an Act
35	18/11/2022	Email from RevenueSA	Released in part	10(1) - Subject to legal professional privilege
36	24/11/2022	Minute	Released in part	12(1) - Disclosure would constitute an offence against an Act
37	18/11/2022	Email from RevenueSA	Released in part	12(1) - Disclosure would constitute an offence against an Act
38	6/12/2022	Minute	Released in part	12(1) - Disclosure would constitute an offence against an Act
39	22/12/2022	Email from RevenueSA	Released in part	12(1) - Disclosure would constitute an offence against an Act
40	9/01/2023	Minute	Released in part	12(1) - Disclosure would constitute an offence against an Act
41	2/02/2023	Email from RevenueSA	Released in part	10(1) - Subject to legal professional privilege
42	9/12/2022	Email from RevenueSA	Released in part	12(1) - Disclosure would constitute an offence against an Act
43	13/12/2022	Minute	Released in part	12(1) - Disclosure would constitute an offence against an Act
44	27/01/2023	Email from RevenueSA	Released in part	12(1) - Disclosure would constitute an offence against an Act
45	8/02/2023	Minute	Released in part	12(1) - Disclosure would constitute an offence against an Act
46	3/02/2023	Email from RevenueSA	Released in part	12(1) - Disclosure would constitute an offence against an Act
47	3/02/2023	Email from RevenueSA	Released in part	12(1) - Disclosure would constitute an offence against an Act
48	7/02/2023	Email from RevenueSA	Released in part	12(1) - Disclosure would constitute an offence against an Act

Schedule of Documents

Doc. No.	Date	Description of Document	Determination Recommendation	Exemption Clause
49	7/02/2023	Minute	Released in part	12(1) - Disclosure would constitute an offence against an Act
50	25/10/2022	Minute	Released in part	12(1) - Disclosure would constitute an offence against an Act 10(1) - Subject to legal professional privilege
51	13/10/2022	Email from RevenueSA	Released in part	12(1) - Disclosure would constitute an offence against an Act
52	8/08/2022	Minute	Released in part	12(1) - Disclosure would constitute an offence against an Act 10(1) - Subject to legal professional privilege
53	11/07/2022	Email from RevenueSA	Released in part	12(1) - Disclosure would constitute an offence against an Act
54	2/08/2022	Minute	Released in part	12(1) - Disclosure would constitute an offence against an Act 7(1)(c)(i)(ii)(A)(B) - Contains information concerning the business, professional, commercial or financial affairs of any agency or person & contrary to public interest 10(1) - Subject to legal professional privilege
55	30/08/2022	Email from RevenueSA	Released in part	12(1) - Disclosure would constitute an offence against an Act
56	16/09/2022	Minute	Released in part	12(1) - Disclosure would constitute an offence against an Act
57	9/09/2022	Email from RevenueSA	Released in part	12(1) - Disclosure would constitute an offence against an Act
58	16/09/2022	Minute	Released in part	12(1) - Disclosure would constitute an offence against an Act
59	24/11/2022	Email from RevenueSA	Released in part	12(1) - Disclosure would constitute an offence against an Act
60	7/12/2022	Minute	Released in part	12(1) - Disclosure would constitute an offence against an Act 10(1) - Subject to legal professional privilege
61	7/07/2022	Email from RevenueSA	Released in part	12(1) - Disclosure would constitute an offence against an Act
62	5/08/2022	Minute	Released in part	12(1) - Disclosure would constitute an offence against an Act
63	8/08/2022	Email from RevenueSA	Released in part	12(1) - Disclosure would constitute an offence against an Act
64	16/08/2022	Minute	Released in part	12(1) - Disclosure would constitute an offence against an Act

Schedule of Documents

Doc. No.	Date	Description of Document	Determination Recommendation	Exemption Clause
				10(1) - Subject to legal professional privilege
65	31/10/2022	Email from RevenueSA	Released in part	12(1) - Disclosure would constitute an offence against an Act
66	24/11/2022	Minute	Released in part	12(1) - Disclosure would constitute an offence against an Act
67	18/08/2022	Email from RevenueSA	Released in part	12(1) - Disclosure would constitute an offence against an Act
68	24/08/2022	Minute	Released in part	12(1) - Disclosure would constitute an offence against an Act

Tonkin, Kate (DTF)

From: DTF:RevenueSA Ministerial Correspondence
Sent: Thursday, 18 August 2022 1:49 PM
To: DTF:Treasurer Ministerial Correspondence
Cc: Davies, Shaun (DTF)
Subject: Clause 12(1) HomeBuilder - Clause 12(1)
Attachments: Clause 12(1) Minute to Treasurer - Clause 12(1).pdf; Clause 12(1) -Treasurer's Letter - Clause 12(1).doc; HBG App Clause 12(1).pdf; HBG Notes Clause 12(1).pdf; Initial Building Contract Clause 12(1).pdf; HomeBuilder Conditional Approval (New Build 25k) Clause 12(1)_CA Clause 12(1).pdf; Clause 12(1) - Home Builders Grant ; Re: HomeBuilder Grant (HBG) UIN Clause 12(1) -

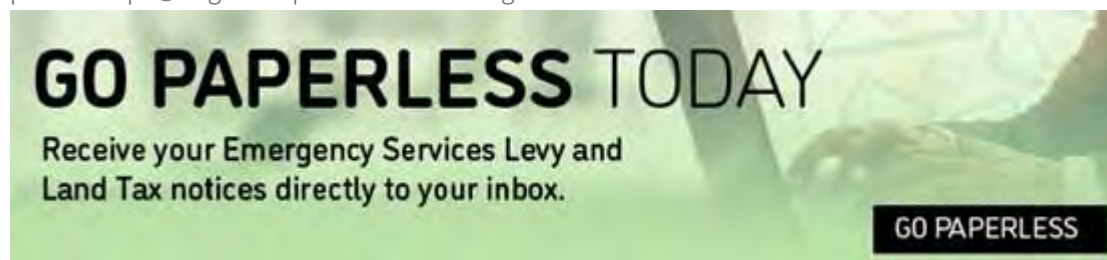
Follow Up Flag: Follow up
Flag Status: Completed

Good Afternoon,

Please see attached correspondence for the Treasurer’s consideration and signature. Thank you

Kind Regards,

Paula Kemp
 Executive Assistant to the Commissioner of State Taxation & Deputy Commissioners’ of State Taxation, Business Support Unit | RevenueSA
 State Administration Centre, 200 Victoria Square ADELAIDE SA 5000t (08) 822 63784 | e paula.kemp2@sa.gov.au | w revenuesa.sa.gov.au



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MINUTE



MINUTES forming ENCLOSURE

File **Clause 12(1)**

To The Treasurer

HOMEBUILDER GRANT — **Clause 12(1)**

Timing: ROUTINE — For your consideration and signature.

Recommendations/Issues: It is recommended that you:

- note the information below and sign the attached response to **Clause 12(1)**
Clause 12(1)

Noted

Hon. Stephen Mullighan MP
Treasurer

Clause 12(1)

Key Points:

Clause 12(1)

Background

Clause 12(1), Clause 7(1)(c)

[Redacted content]

Clause 12(1)

- In his email dated Clause 12(1) queries whether there are any conditions whereby the Applicants can retrospectively receive the HBG.

Eligibility criteria for the HBG

- As you are aware, the HBG is a Commonwealth Government initiative that is being administered in South Australia by the Commissioner and RevenueSA pursuant to the National Partnership Agreement on HomeBuilder (the "HomeBuilder NPA") between the Commonwealth Government and the States/Territories, including South Australia. The HomeBuilder NPA stipulates, at Clause 17(a), that it is the responsibility of the States/Territories to make the necessary arrangements to administer the HBG consistent with the terms, conditions, eligibility criteria and principles set out in Schedule A to the HomeBuilder NPA.
- In South Australia, the HBG is available in accordance with section 6A of the *First Home and Housing Construction Grants Act 2000*, which relevantly provides that entitlement to the HBG and the eligibility criteria will be determined by the Commissioner (and published on a website determined by the Commissioner) in accordance with the terms of the HomeBuilder NPA.
- RevenueSA's website provides, in accordance with the terms of the HomeBuilder NPA, that the HBG amount available is:
 - \$25,000 where the contract is signed between 4 June 2020 and 31 December 2020; or
 - \$15,000 where the contract is signed between 1 January 2021 and 31 March 2021.

- Further, the HBG contents of RevenueSA's website relevantly provide:

"I've had to cancel my contract to build, will I still be eligible if I enter into a new contract?"

If you entered into a contract to build on or after 4 June 2020, and subsequently have had to cancel that contract, you may still be eligible for the HomeBuilder Grant if you enter into a new contract to build before 31 March 2021." [emphasis added]

- As stated above, RevenueSA's website clearly provides that if an applicant/s entered into a contract to build on or after 4 June 2020, and subsequently had to cancel that contract, the applicant/s may still be eligible for the HBG if the applicant enters into a new contract to build before 31 March 2021.

Clause 12(1)

- In regard to replacement contracts, South Australia (along with the other jurisdictions), in consultation with the Commonwealth Government, have determined to permit a replacement contract with another builder (for work that is similar in scope) after 31 March 2021, but only where the work under the eligible contract cannot be completed

because the original builder enters into administration, receivership or liquidation, or passes away. This is also clearly articulated on RevenueSA's website.

Clause 12(1)

Clause 12(1)

- Further, the eligibility criteria for the HBG was set by the Commonwealth Government and is being applied uniformly across Australia. Accordingly, there is no scope for you, me or the Department of Treasury and Finance to allow applications for the HBG where the eligibility criteria has not been met.
- A draft response to Clause 12(1) is attached for your consideration.

Julie Holmes

Julie Holmes
COMMISSIONER OF STATE TAXATION

Clause 12(1)

Contact Officer:	Mr Peter Janicki
Telephone:	8207 2134
Email:	peter.janicki@sa.gov.au

Tonkin, Kate (DTF)

From: Janicki, Peter (DTF)
Sent: Thursday, 13 October 2022 9:45 AM
To: Davies, Shaun (DTF)
Subject: Clause 12(1) - HBG Objection - Clause 12(1)
Attachments: Acknowledgement Letter - [REDACTED].doc

Follow Up Flag: Flag for follow up
Flag Status: Flagged

Good Morning

I refer to the above matter regarding an Objection lodged by Clause 12(1) [REDACTED] in relation to a HomeBuilder Grant application.

Clause 12(1) [REDACTED]

As a formal Objection, we will be seeking advice from the Crown-Solicitor; I have prepared a draft Acknowledgement letter accordingly.

Kind Regards

Peter Janicki
Policy Officer, Legislative Services | RevenueSA

GPO Box 1353 ADELAIDE SA 5001
t 820 72134 | e peter.janicki@sa.gov.au | w revenuesa.sa.gov.au

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Tonkin, Kate (DTF)

From: DTF:RevenueSA Ministerial Correspondence
Sent: Friday, 3 February 2023 9:13 AM
To: DTF:Treasurer Ministerial Correspondence
Cc: Davies, Shaun (DTF)
Subject: Clause 12(1) - HomeBuilder - Clause 12(1)
Attachments: Clause 12(1) - Minute to the TRS - HomeBuilder - Clause 12(1).pdf; A2514941 - Letter - HomeBuilder - Clause 12(1).doc

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Returns

OFFICIAL: Sensitive

Good Morning,

Please see attached correspondence for the Treasurer’s consideration and signature.

Thank you

Kind Regards,

Paula Kemp
 Executive Assistant to the Commissioner of State Taxation & Deputy Commissioners’ of State Taxation, Business Support Unit | RevenueSA
 State Administration Centre, 200 Victoria Square ADELAIDE SA 5000t (08) 822 63784 | e paula.kemp2@sa.gov.au | w revenuesa.sa.gov.au



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Tonkin, Kate (DTF)

From: DTF:RevenueSA Ministerial Correspondence
Sent: Thursday, 25 August 2022 10:50 AM
To: DTF:Treasurer Ministerial Correspondence
Cc: Davies, Shaun (DTF); Pitcher, Sandy (DTF)
Subject: Clause 12(1) - HomeBuilder - Clause 12(1)
Attachments: Clause 12(1) - HBG TRS Minute - Clause 12(1) (),pdf; Clause 12(1) - HBG TRS Letter - Clause 12(1) .doc; FIN - INCOMING - HomeBuilding Grant (),pdf

Categories: Returns

Good Morning,

Please see attached correspondence for the Treasurer’s consideration and signature. Thank you

Kind Regards,

Paula Kemp

Executive Assistant to the Commissioner of State Taxation & Deputy Commissioners’ of State Taxation, Business Support Unit | RevenueSA

State Administration Centre, 200 Victoria Square ADELAIDE SA 5000t (08) 822 63784 | e

paula.kemp2@sa.gov.au | w revenuesa.sa.gov.au



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MINUTE



Government of South Australia
Department of Treasury and Finance

MINUTES forming ENCLOSURE

File **Clause 12(1)**

To The Treasurer

HOMEBUILDER GRANT – **Clause 12(1)**

Timing: ROUTINE – For your consideration and signature.

Recommendations/Issues: It is recommended that you:

- note the information below and sign the attached letter to **Clause 12(1)**

Noted

Hon. Stephen Mullighan MP
Treasurer

Clause 12(1)

Key Points:

- In an undated letter received by your Office on **Clause 12(1)**

Clause 12(1)

Background

Clause 12(1)



OFFICIAL: Sensitive

Clause 12(1)



Eligibility criteria for the HBG

- As you are aware, the HBG is a Commonwealth Government initiative that is being administered in South Australia by the Commissioner and RevenueSA pursuant to the National Partnership Agreement on HomeBuilder (the "HomeBuilder NPA") between the Commonwealth Government and the States/Territories, including South Australia. The HomeBuilder NPA stipulates, at Clause 17(a), that it is the responsibility of the States/Territories to make the necessary arrangements to administer the HBG consistent with the terms, conditions, eligibility criteria and principles set out in Schedule A to the HomeBuilder NPA.
- In South Australia, the HBG is available in accordance with section 6A of the *First Home and Housing Construction Grants Act 2000*, which relevantly provides that entitlement to the HBG and the eligibility criteria will be determined by the Commissioner (and published on a website determined by the Commissioner) in accordance with the terms of the HomeBuilder NPA.
- RevenueSA's website provides, in accordance with the terms of the HomeBuilder NPA, that the HBG amount available is:
 - \$25,000 where the contract is signed between 4 June 2020 and 31 December 2020; or
 - \$15,000 where the contract is signed between 1 January 2021 and 31 March 2021.
- As stated above, RevenueSA's website clearly provides the eligibility dates and the amount of the HBG available. Furthermore, for a contract to be legally binding and valid, certain elements must be made out including that it needs to be fully executed by both parties.

Clause 12(1)



Clause 12(1)



- Section 23 of the Act (which applies to the HBG) relevantly provides that if the Commissioner decides an application, and is later satisfied (independently of an objection under the Act) that the decision is incorrect, the Commissioner may vary or reverse the decision.
- Whilst it is unfortunate that the RevenueSA's conditional approved approval letter incorrectly advised the wrong amount and RevenueSA sincerely apologises for this human error. I am satisfied that the Applicants are only eligible **Clause 12(1)** [REDACTED] that their HBG application has been appropriately considered and assessed in accordance with the HomeBuilder NPA, the Act and the HBG content on the RevenueSA website.
- A draft response to **Clause 12(1)** [REDACTED] is attached for your consideration.

Julie Holmes

Julie Holmes
COMMISSIONER OF STATE TAXATION

Clause 12(1)

Contact Officer:	Mr Russell Fairley
Telephone:	820 71991
Email:	russell.fairley@sa.gov.au

Tonkin, Kate (DTF)

From: Kemp, Paula (DTF)
Sent: Friday, 28 October 2022 4:50 PM
To: DTF:Treasurer Ministerial Correspondence
Cc: Davies, Shaun (DTF)
Subject: Clause 12(1) - HomeBuilder Grant Objection - Clause 12(1)
Attachments: Clause 12(1) - HomeBuilder Grant Objection - TRS Summary Minute.pdf; Clause 12(1) - HomeBuilder Grant Objection - Clause 12(1) - TRS Determination Letter.doc; Notice of Objection - HomeBuilder - Clause 12(1).pdf; Clause 12(1) - HomeBuilder Grant - CSO Advice.pdf

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Returns

Good Afternoon,

Please see attached correspondence for the Treasurer’s consideration and signature. Thank you

Kind Regards,

Paula Kemp
Executive Assistant to the Commissioner of State Taxation & Deputy Commissioners’ of State Taxation, Business Support Unit | RevenueSA
State Administration Centre, 200 Victoria Square ADELAIDE SA 5000t (08) 822 63784 | e paula.kemp2@sa.gov.au | w revenuesa.sa.gov.au



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MINUTE



Government
of South Australia
Department of Treasury
and Finance

MINUTES forming ENCLOSURE

File **Clause 12(1)**

To The Treasurer

HOMEBUILDER GRANT – OBJECTION – **Clause 12(1)**

Timing: ROUTINE — For your consideration and signature.

Recommendations/Issues: It is recommended that you:

- **Clause 12(1), Clause 10(1)**
- sign the enclosed letter to **Clause 12(1)**

Objection – Allowed / Disallowed

Hon. Stephen Mullighan MP
Treasurer

/ / 2022

Key Points:

- On **Clause 12(1)** lodged a Notice of Objection to a decision made by the Commissioner of State Taxation in relation to the HomeBuilder Grant (the “HBG”).
- **Clause 12(1)**.
- **Clause 10(1), Clause 12(1)**

Lisa Smith

Lisa Smith
DEPUTY COMMISSIONER OF STATE TAXATION

Clause 12(1)

Contact Officer:	Mr Louis Moragiannis
Telephone or Email:	846 36537 or Louis.Moragiannis@sa.gov.au



OFFICIAL: Sensitive

Tonkin, Kate (DTF)

From: DTF:RevenueSA Ministerial Correspondence
Sent: Tuesday, 30 August 2022 2:21 PM
To: DTF:Treasurer Ministerial Correspondence
Cc: Davies, Shaun (DTF); Pitcher, Sandy (DTF)
Subject: Clause 12(1) - HomeBuilder - Clause 12(1)
Attachments: Minute to Treasurer - Clause 12(1).pdf; Treasurer's Letter - Clause 12(1).doc

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Returns

Good afternoon

Please see attached correspondence for the Treasurer's consideration and signature. Thank you

Kind regards

Susan Shanahan

Senior Business Support Officer – Business Support Team | RevenueSA

GPO Box 1353 ADELAIDE SA 5001

t 820 71982 | e susan.shanahan@sa.gov.au | w revenuesa.sa.gov.au



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MINUTE



Government of South Australia
Department of Treasury and Finance

MINUTES forming ENCLOSURE

File

Clause 12(1)

To The Treasurer

Homebuilder Grant - Clause 12(1)

Timing: ROUTINE — For your consideration and signature.

Recommendations/Issues: It is recommended that you:

- note the information below and sign the attached response to Clause 12(1)

Noted

Hon. Stephen Mullighan MP
Treasurer

Clause 12(1)

Key Points:

- Clause 12(1)

Background

Clause 12(1)

- The eligibility criteria for a new build requires that the combined consideration for the building contract and the market value of the land does not exceed \$750,000 (the "Market Value Cap").

Clause 12(1)

- Capital values are determined by the OVG and are used by statutory authorities to work out rates and taxes. This is distinct from the market value of a property, which is the price for which a property would exchange between a willing buyer and a willing seller acting at arms-length in the open market.

Clause 12(1)

- In addition, given this matter does not raise any legal grounds of objection, advice from the Crown Solicitor is not warranted.

- A draft response to **Clause 12(1)** is attached for your consideration.

Julie Holmes

Julie Holmes
COMMISSIONER OF STATE TAXATION

Clause 12(1)

Contact Officer:	Mr Peter Janicki
Telephone:	8207 2134
Email:	peter.janicki@sa.gov.au

MINUTE



Government of South Australia
Department of Treasury and Finance

MINUTES forming ENCLOSURE

File

Clause 12(1)

To The Treasurer

Homebuilder Grant - Clause 12(1)

Timing: ROUTINE — For your consideration and signature.

Recommendations/Issues: It is recommended that you:

- note the information below and sign the attached response to Clause 12(1)

Clause 12(1)

Noted

Hon. Stephen Mullighan MP
Treasurer

Clause 12(1)

Key Points:

Clause 12(1)

Background

Clause 12(1)



Clause 12(1)

Eligibility criteria for the HBG

- As you are aware, the HBG is a Commonwealth Government initiative that is being administered in South Australia by the Commissioner and RevenueSA pursuant to the National Partnership Agreement on HomeBuilder (the "HomeBuilder NPA") between the Commonwealth Government and the States/Territories, including South Australia. The HomeBuilder NPA stipulates, at clause 17(a), that it is the responsibility of the States/Territories to make the necessary arrangements to administer the HBG consistent with the terms, conditions, eligibility criteria and principles set out in Schedule A to the HomeBuilder NPA.
- In South Australia, the HBG is available in accordance with section 6A of the *First Home and Housing Construction Grants Act 2000*, which relevantly provides that entitlement to the HBG and the eligibility criteria will be determined by the Commissioner (and published on a website determined by the Commissioner) in accordance with the terms of the HomeBuilder NPA.

- RevenueSA's website relevantly provides that the following eligibility criteria applies in relation to "new build" transactions:

"To qualify for the HomeBuilder Grant, building of your home must commence not later than 18 months after signing the building contract. Building is taken to have commenced when site works including excavation for the approved building works to the top of the base level is complete."

- Further, RevenueSA's website provides:

"Can I get an extension if building does not commence within 18 months of signing my building contract?"

On 17 April 2021, the Australian Government announced it would extend the construction commencement requirements from 6 months to 18 months for all submitted applications (that is, for all contracts signed 4 June 2020 – 31 March 2021 inclusive).

The 18 month time limit is a strict requirement. The Commissioner has no discretion to provide any extensions beyond the 18 months. [emphasis added]

- As stated above, RevenueSA's website clearly provides that construction must commence within 18 months of the build contract, and there is no discretion to extend this timing requirement.

Clause 12(1)

- Accordingly, I am satisfied that the Applicants' HBG application has been appropriately considered and assessed by RevenueSA in accordance with the HBG content published on its website.
- While RevenueSA sympathises with the Applicants' situation, the eligibility criteria for the HBG was set by the Commonwealth Government and is being applied uniformly across Australia. Accordingly, there is no scope for you, me or the Department of Treasury and Finance to allow applications for the HBG where the eligibility criteria has not been met, regardless of the circumstances or who was at fault in not commencing construction within the required time limit. Ultimately, no matter where the line is drawn in respect of statutory requirements, there will always be persons who fall just outside the requirements.

- A draft response to the Applicants is attached for your consideration.

Julie Holmes

Julie Holmes
COMMISSIONER OF STATE TAXATION

Clause 12(1)

Contact Officer:	Mr Peter Janicki
Telephone:	8207 2134
Email:	peter.janicki@sa.gov.au

Tonkin, Kate (DTF)

From: DTF:RevenueSA Ministerial Correspondence
Sent: Thursday, 8 September 2022 10:17 AM
To: DTF:Treasurer Ministerial Correspondence
Cc: Pitcher, Sandy (DTF); Davies, Shaun (DTF)
Subject: FW: **Clause 12(1)** - HomeBuilder - **Clause 12(1)**
Attachments: [redacted] - Letter - HomeBuilder - [redacted].doc; **Clause 12(1)** - HomeBuilder - Minute to Treasurer - **Clause 12(1)** ([redacted]).pdf

Follow Up Flag: Follow up
Flag Status: Completed

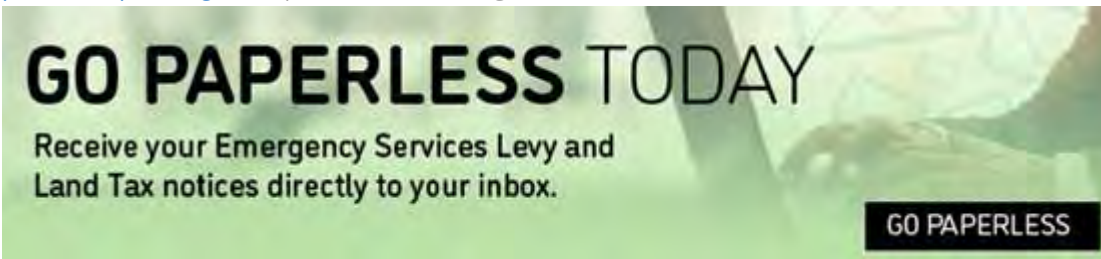
Good Morning,

My apologies I have updated the title which should be HomeBuilder

Please see attached correspondence for the Treasurer’s consideration and signature. Thank you

Kind Regards,

Paula Kemp
Executive Assistant to the Commissioner of State Taxation & Deputy Commissioners’ of State Taxation, Business Support Unit | RevenueSA
State Administration Centre, 200 Victoria Square ADELAIDE SA 5000t (08) 822 63784 | e paula.kemp2@sa.gov.au | w revenuesa.sa.gov.au



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Tonkin, Kate (DTF)

From: DTF:RevenueSA Ministerial Correspondence
Sent: Thursday, 24 November 2022 2:40 PM
To: DTF:Treasurer Ministerial Correspondence
Cc: Davies, Shaun (DTF)
Subject: Clause 12(1) - HomeBuilder Grant Objection - [Redacted]
Attachments: Clause 12(1) - HomeBuilder Grant Objection - Clause 12(1) [Redacted] - TRS
 Summary Minute.pdf; [Redacted] - HomeBuilder Grant Objection - Clause 12(1) [Redacted]
 [Redacted] - TRS Letter.doc; Clause 12(1) [Redacted] - HomeBuilder Grant - CSO
 Advice.pdf

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Returns

OFFICIAL

Good afternoon
 Please see attached correspondence for the Treasurer’s consideration and signature.
 Crown Advice is also attached. Thank you.

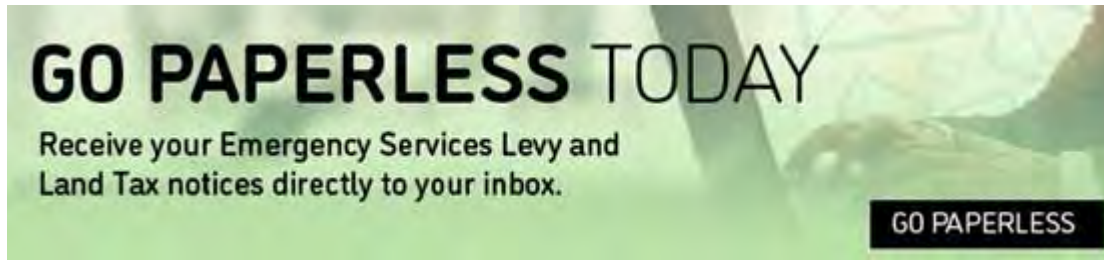
Kind regards

Susan Shanahan

Senior Business Support Officer – Business Support Team | RevenueSA

GPO Box 1353 ADELAIDE SA 5001

t 820 71982 | e susan.shanahan@sa.gov.au | w revenuesa.sa.gov.au



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MINUTE



Government of South Australia
Department of Treasury and Finance

MINUTES forming ENCLOSURE

File **Clause 12(1)**

To The Treasurer

HOMEBUILDER GRANT – OBJECTION – **Clause 12(1)**

Timing: ROUTINE — For your consideration and signature.

Recommendations/Issues: It is recommended that you:

- **Clause 10(1), Clause 12(1)**
- sign the attached response to **Clause 12(1)**

Clause 12(1)

Hon. Stephen Mullighan MP
Treasurer

Clause 12(1)

Key Points:

Clause 12(1)

Clause 10(1), Clause 12(1)



Clause 10(1)

• Clause 10(1)

Lisa Smith

Lisa Smith
DEPUTY COMMISSIONER OF STATE TAXATION

Clause 12(1)

Contact Officer:	Mr Louis Moragiannis
Telephone or Email:	846 36537 or Louis.Moragiannis@sa.gov.au

Tonkin, Kate (DTF)

From: Kemp, Paula (DTF)
Sent: Friday, 9 September 2022 1:15 PM
To: DTF:Treasurer Ministerial Correspondence
Cc: Davies, Shaun (DTF); Pitcher, Sandy (DTF)
Subject: Clause 12(1) - HomeBuilder - Clause 12(1)
Attachments: Clause 12(1) - Letter - HomeBuilder - Clause 12(1).doc; Clause 12(1) - Minute - HomeBuilder - Clause 12(1).pdf

Categories: Returns

Good Afternoon,

Please see attached correspondence for the Treasurer’s consideration and signature. Thank you

Kind Regards,

Paula Kemp

Executive Assistant to the Commissioner of State Taxation & Deputy Commissioners’ of State Taxation, Business Support Unit | RevenueSA

State Administration Centre, 200 Victoria Square ADELAIDE SA 5000t (08) 822 63784 | e paula.kemp2@sa.gov.au | w revenuesa.sa.gov.au



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MINUTE



Government of South Australia
Department of Treasury and Finance

MINUTES forming ENCLOSURE

File

Clause 12(1)

To The Treasurer

HomeBuilder Grant – Clause 12(1)

Timing: ROUTINE — For your consideration and signature.

Recommendations/Issues: It is recommended that you:

- note the information below and sign the attached response to Clause 12(1)

Noted

Hon. Stephen Mullighan MP
Treasurer

Clause 12(1)

Key Points:

Clause 12(1)

- As you are aware, the HBG is a Commonwealth Government initiative that is being administered in South Australia by the Commissioner of State Taxation (the "Commissioner") and RevenueSA pursuant to the National Partnership Agreement on HomeBuilder (the "HomeBuilder NPA") between the Commonwealth Government and the States/Territories, including South Australia. The HomeBuilder NPA stipulates, at clause 17(a), that it is the responsibility of the States/Territories to make the necessary arrangements to administer the HBG consistent with the terms, conditions, eligibility criteria and principles set out in Schedule A to the HomeBuilder NPA.



- In South Australia, the HBG is available in accordance with section 6A of the *First Home and Housing Construction Grants Act 2000*, which relevantly provides that entitlement to the HBG and the eligibility criteria will be determined by the Commissioner (and published on a website determined by the Commissioner) in accordance with the terms of the HomeBuilder NPA.
- RevenueSA's website provides, in accordance with the terms of the HomeBuilder NPA, that the following eligibility criteria applies in relation to "off the plan/new home" transactions:

"Building of the home must have commenced on or after 4 June 2020 and no later than 18 months after signing the sales contract. Building is taken to have commenced when site works including excavation for the approved building works to the top of the base level is complete."

- Further, the HBG contents of RevenueSA's website relevantly provide:

"Can I get an extension if building does not commence within 18 months of signing my building contract?"

On 17 April 2021, the Australian Government announced it would extend the construction commencement requirements from 6 months to 18 months for all submitted applications (that is, for all contracts signed 4 June 2020 – 31 March 2021 inclusive).

The 18 month time limit is a strict requirement. The Commissioner has no discretion to provide any extensions beyond the 18 months. [emphasis added]

- As stated above, RevenueSA's website clearly provides that construction must commence within 18 months of the sales contract, and an extension to this timing requirement cannot be granted.

Clause 12(1)

- The eligibility criteria for the HBG was set by the Commonwealth Government and is being applied uniformly across Australia. Accordingly, there is no scope for you, me or the Department of Treasury and Finance to amend the eligibility criteria for the HBG or to allow applications for the HBG where the eligibility criteria has not been met, regardless of the circumstances or who was at fault in not commencing construction within the required time limit.

Clause 12(1)

- A draft response to **Clause 12(1)** is attached for your consideration.

Julie Holmes

Julie Holmes
COMMISSIONER OF STATE TAXATION

Clause 12(1)

Contact Officer:	Mr Peter Janicki
Telephone:	8207 2134
Email:	peter.janicki@sa.gov.au

MINUTE



Government of South Australia
Department of Treasury and Finance

MINUTES forming ENCLOSURE

File **Clause 12(1)**

To The Treasurer

HOME BUILDER GRANT - **Clause 12(1)**

Timing: ROUTINE — For your consideration and signature.

Recommendations/Issues: It is recommended that you:

- note the information below and sign the attached response to **Clause 12(1)**

Noted

Hon. Stephen Mullighan MP
Treasurer

Clause 12(1)

Key Points:

Clause 12(1)

Background

Clause 12(1)



Clause 12(1)

Clause 7(1)(c), Clause 12(1)

Clause 12(1)

Eligibility criteria for the HBG

- As you are aware the HBG is a Commonwealth Government initiative that is being administered in South Australia by the Commissioner and RevenueSA pursuant to the National Partnership Agreement on HomeBuilder (the "HomeBuilder NPA") between the Commonwealth Government and the States/Territories, including South Australia. The HomeBuilder NPA stipulates, at clause 17(a), that it is the responsibility of the States/Territories to make the necessary arrangements to administer the HBG consistent with the terms, conditions, eligibility criteria and principles set out in Schedule A to the HomeBuilder NPA.
- In South Australia, the HBG is available in accordance with section 6A of the *First Home and Housing Construction Grants Act 2000*, which relevantly provides that entitlement to the HBG and the eligibility criteria will be determined by the Commissioner (and published on a website determined by the Commissioner) in accordance with the terms of the HomeBuilder NPA.
- The eligibility criteria for the HBG, as outlined on RevenueSA's website states [my emphasis added]:

"The building work undertaken on your home must be undertaken by a person who currently holds a relevant licence as required under the Building Work Contractors Act 1995 (but not an owner builder) and held that licence on:

- *4 June 2020 - for contracts signed between 4 June 2020 and 28 November 2020; or*

- o 29 November 2020 - for contracts signed between 29 November 2020 and 31 March 2021"

Clause 12(1)

Clause 7(1)(c), Clause 12(1)

Clause 12(1)

- A draft response to the Applicants is attached for your consideration.

Julie Holmes

Julie Holmes
COMMISSIONER OF STATE TAXATION

Clause 12(1)

Contact Officer:	Mr Peter Janicki
Telephone:	8207 2134
Email:	peter.janicki@sa.gov.au

Tonkin, Kate (DTF)

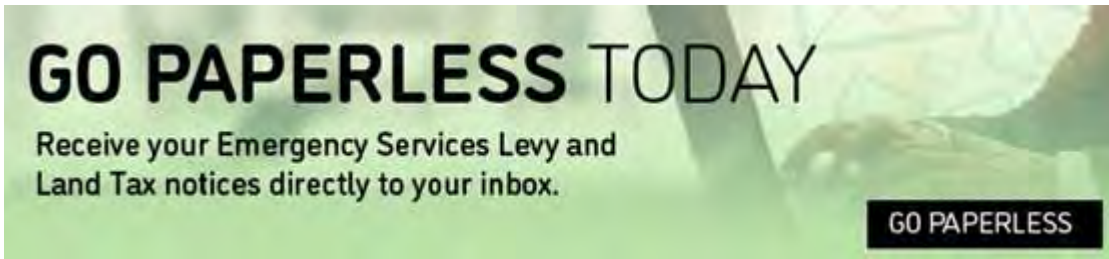
From: DTF:RevenueSA Ministerial Correspondence
Sent: Thursday, 29 September 2022 4:39 PM
To: DTF:Treasurer Ministerial Correspondence
Cc: Davies, Shaun (DTF); Pitcher, Sandy (DTF)
Subject: Clause 12(1) - HomeBuilder - Clause 12(1)
Attachments: Minute to Treasurer - Clause 12(1).pdf; Treasurer's Letter - Clause 12(1).doc; Clause 12(1) - Final minute - Homebuilder - Clause 12(1).pdf; Clause 12(1) - Final letter - Homebuilder - Clause 12(1).pdf
Categories: Returns

Good afternoon
Please find attached correspondence for the Treasurer's consideration and signature. Thank you.

Kind regards

Susan Shanahan
Senior Business Support Officer – Business Support Team | RevenueSA

GPO Box 1353 ADELAIDE SA 5001
t 820 71982 | e susan.shanahan@sa.gov.au | w revenuesa.sa.gov.au



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MINUTE



Government of South Australia
Department of Treasury and Finance

MINUTES forming ENCLOSURE

File

Clause 12(1)

To The Treasurer

Homebuilder Grant – Clause 12(1)

Timing: ROUTINE — For your consideration and signature.

Recommendations/Issues: It is recommended that you:

- note the information below and sign the attached response to

Clause 12(1)

Noted

Hon. Stephen Mullighan MP
Treasurer

Clause 12(1)

Key Points:

Clause 12(1)

Background

Clause 12(1)

Clause 12(1)

Eligibility criteria for the HBG

- The HBG is a Commonwealth Government initiative that is being administered in South Australia by the Commissioner and RevenueSA pursuant to the National Partnership Agreement on HomeBuilder (the "HomeBuilder NPA") between the Commonwealth Government and the States/Territories, including South Australia. The HomeBuilder NPA stipulates, at Clause 17(a), that it is the responsibility of the States/Territories to make the necessary arrangements to administer the HBG consistent with the terms, conditions, eligibility criteria and principles set out in Schedule A to the HomeBuilder NPA.
- In South Australia, the HBG is available in accordance with section 6A of the *First Home and Housing Construction Grants Act 2000* (the "Act"), which relevantly provides that entitlement to the HBG and the eligibility criteria will be determined by the Commissioner (and published on a website determined by the Commissioner) in accordance with the terms of the HomeBuilder NPA.
- Clause 2.3 of Schedule A to the HomeBuilder NPA states [my emphasis added]:

"To access HomeBuilder, owner-occupier applicants must... be an Australian citizen".
- The "Evidentiary Requirements" section of the HomeBuilder NPA also provides that a current Australian passport or Australian citizenship certificate must be provided as proof of identity.
- The RevenueSA website states [my emphasis added]:

"All applicants must... be an Australian citizen at the time of application (permanent residents are not eligible for the HomeBuilder Grant)".

Clause 12(1)

- The DHA website states that, for an Australian citizenship by conferral application, the processing time from the date of the application to the Australian citizenship ceremony can vary from 11 months to 21 months. Further, the website states that a person becomes a citizen of Australia when that individual has made the Australian citizenship pledge of commitment. The citizenship certificate is evidence of an individuals' Australian citizenship once that person has made the pledge.

Clause 12(1)

- The eligibility criteria for the HBG was set by the Commonwealth Government and is being applied uniformly across Australia. Accordingly, there is no scope for you, me or the Department of Treasury and Finance to amend the eligibility criteria for the HBG or to allow applications for the HBG where the eligibility criteria has not been met, regardless of the circumstances or who was at fault in not meeting certain criteria.

Clause 12(1)

- A draft response to **Clause 12(1)** is attached for your consideration.

Julie Holmes

Julie Holmes
COMMISSIONER OF STATE TAXATION

Clause 12(1)

Contact Officer:	Ms Julie Roberts
Telephone:	8207 1985
Email:	julie.roberts2@sa.gov.au

Tonkin, Kate (DTF)

From: DTF:RevenueSA Ministerial Correspondence
Sent: Thursday, 15 December 2022 11:29 AM
To: DTF:Treasurer Ministerial Correspondence
Cc: Davies, Shaun (DTF)
Subject: Clause 12(1) - HomeBuilder - Clause 12(1)
Attachments: Clause 12(1) - Minute - HomeBuilder - Clause 12(1).pdf; Clause 12(1) - Letter - HomeBuilder - Clause 12(1).doc; Clause 12(1) - Crown Advice - Clause 12(1) - Received Clause 12(1).pdf

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Returns

OFFICIAL

Good Morning,

Please see attached, correspondence for the Treasurer’s consideration and signature. Thank you

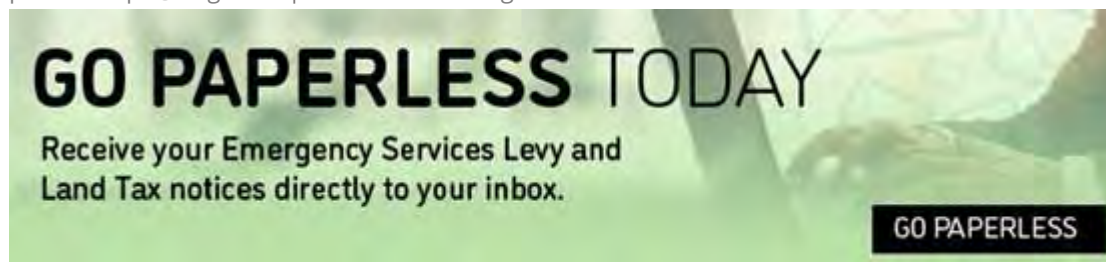
Kind Regards,

Paula Kemp

Executive Assistant to the Commissioner of State Taxation & Deputy Commissioners’ of State Taxation, Business Support Unit | RevenueSA

State Administration Centre, 200 Victoria Square ADELAIDE SA 5000 **t** (08) 822 **63784** | **e**

paula.kemp2@sa.gov.au | **w** revenuesa.sa.gov.au



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MINUTE



Government of South Australia
Department of Treasury and Finance

MINUTES forming ENCLOSURE

File

Clause 12(1)

To The Treasurer

HOMEBUILDER GRANT – OBJECTION - Clause 12(1)

Timing: ROUTINE — For your consideration and signature.

Recommendations/Issues: It is recommended that you:

- Clause 10(1), Clause 12(1)

- sign the attached response to Clause 12(1)

Clause 12(1)

Hon. Stephen Mullighan MP
Treasurer

Clause 12(1)

Key Points:

Clause 12(1)

Clause 12(1)

- The eligibility criteria for the HBG states that substantial renovations can be either:
 - making a considerable change to your home; or
 - demolishing your home and building a new home on the land.
- Substantial renovations are taken to mean that the renovation will:
 - substantially alter the existing dwelling (although this need not involve removal or replacement of foundations, external walls, interior supporting walls, floors, roof or staircases); and
 - improve the accessibility, safety or liveability of the home (or land by building a new home).
- Given these requirements, a substantial renovation does not generally include:
 - stand-alone granny flats, swimming pools, tennis courts, and structures not connected to the building such as outdoor spas, saunas, sheds or stand-alone garages; or
 - renovations that are primarily cosmetic in purpose such as landscaping, painting or recarpeting.

Clause 10(1), Clause 12(1)

- A letter **Clause 10(1)** is attached for your signature.

Lisa Smith

Lisa Smith
DEPUTY COMMISSIONER OF STATE TAXATION

Clause 12(1)

Contact Officer:	Mr Peter Janicki
Telephone:	8207 2134
Email:	peter.janicki@sa.gov.au



MINUTES forming ENCLOSURE

File

Clause 12(1)

To The Treasurer

FIRST HOME OWNER GRANT AND HOMEBUILDER GRANT— Clause 12(1)

Timing: ROUTINE — For your consideration and signature.

Recommendations/Issues: It is recommended that you:

- note the information below and sign the attached response to Clause 12(1)

Noted

Hon. Stephen Mullighan MP
Treasurer

Clause 12(1)

Key Points:

- Clause 12(1) regarding a decision of the Commissioner of State Taxation (the "Commissioner") in relation to the First Home Owner Grant ("FHOG") and the HomeBuilder Grant ("HBG").

Background

Clause 12(1)

Clause 12(1)

- As you are aware, the HBG is a Commonwealth Government initiative that is being administered in South Australia by the Commissioner and RevenueSA pursuant to the National Partnership Agreement on HomeBuilder (the "HomeBuilder NPA") between the Commonwealth Government and the States/Territories, including South Australia. The HomeBuilder NPA stipulates, at Clause 17(a), that it is the responsibility of the States/Territories to make the necessary arrangements to administer the HBG consistent with the terms, conditions, eligibility criteria and principles set out in Schedule A to the HomeBuilder NPA.
- South Australia has chosen to make those arrangements via section 6A of Act, which relevantly provides that entitlement to the HBG and the eligibility criteria will be determined by the Commissioner (and published on a website determined by the Commissioner) in accordance with the terms of the HomeBuilder NPA.
- The HBG is available to eligible owner-occupiers who build a new home, substantially renovate an existing home, or buy an off the plan/new home, where the contract is signed between 4 June 2020 and 31 March 2021 inclusive.

Clause 10(1)

Clause 12(1)

Lisa Smith

Lisa Smith
DEPUTY COMMISSIONER OF STATE TAXATION

Clause 12(1)

Contact Officer:	Mr Peter Janicki
Telephone:	8207 2134

Email:	peter.janicki@sa.gov.au
--------	-------------------------

Tonkin, Kate (DTF)

From: DTF:RevenueSA Ministerial Correspondence
Sent: Monday, 10 October 2022 10:54 AM
To: DTF:Treasurer Ministerial Correspondence
Cc: Davies, Shaun (DTF); Pitcher, Sandy (DTF)
Subject: Clause 12(1) - HomeBuilder - [REDACTED]
Attachments: [REDACTED] - HomeBuilder - Clause 12(1).pdf; Clause 12(1) - HomeBuilder - Letter - [REDACTED].doc; Clause 12(1) - Final Minute.pdf

Follow Up Flag: Follow up
Flag Status: Completed

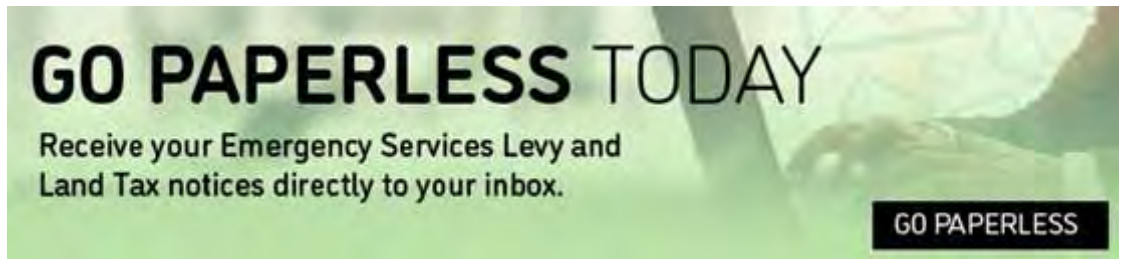
Categories: Returns

Good Morning,

Please see attached correspondence for the Treasurer’s consideration and signature. Thank you

Kind Regards,

Paula Kemp
Executive Assistant to the Commissioner of State Taxation & Deputy Commissioners’ of State Taxation, Business Support Unit | RevenueSA
State Administration Centre, 200 Victoria Square ADELAIDE SA 5000t (08) 822 63784 | e paula.kemp2@sa.gov.au | w revenuesa.sa.gov.au



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Tonkin, Kate (DTF)

From: DTF:RevenueSA Ministerial Correspondence
Sent: Thursday, 13 October 2022 12:18 PM
To: DTF:Treasurer Ministerial Correspondence
Cc: Davies, Shaun (DTF); Pitcher, Sandy (DTF)
Subject: FW: Clause 12(1) - HomeBuilder - Clause 12(1)
Attachments: Clause 12(1) - HomeBuilder Grant - [redacted] - TRS Minute.pdf; Clause 12(1) - HomeBuilder Grant - Clause 12(1) - TRS Letter.doc; Clause 12(1) [redacted] Advice - 11 October 2022.pdf

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Returns

Good Afternoon,

My apologies, my signature is on this email.

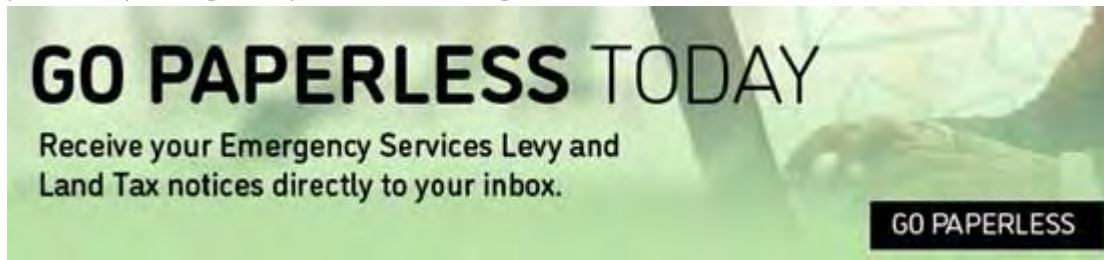
Please see attached correspondence for the Treasurer’s consideration and signature. Thank you.

Kind Regards,

Paula Kemp

Executive Assistant to the Commissioner of State Taxation & Deputy Commissioners’ of State Taxation, Business Support Unit | RevenueSA

State Administration Centre, 200 Victoria Square ADELAIDE SA 5000t (08) 822 63784 | e paula.kemp2@sa.gov.au | w revenuesa.sa.gov.au



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MINUTE



Government of South Australia
Department of Treasury and Finance

MINUTES forming ENCLOSURE

File

Clause 12(1)

To The Treasurer

HOMEBUILDER GRANT – Clause 12(1)

Timing: ROUTINE — For your consideration and signature.

Recommendations/Issues: It is recommended that you:

- note the information below and sign the attached response to Clause 12(1)

Noted

Hon. Stephen Mullighan MP
Treasurer

Clause 12(1)

Key Points:

- Clause 12(1)
- Clause 12(1)

Background

- Clause 12(1)
- Clause 12(1)
- Clause 12(1)



Clause 12(1)

HBG eligibility criteria

- As you are aware, the HBG is a Commonwealth Government initiative that is being administered in South Australia by the Commissioner and RevenueSA pursuant to the National Partnership Agreement on HomeBuilder (the "HomeBuilder NPA") between the Commonwealth Government and the States/Territories, including South Australia. The HomeBuilder NPA stipulates, at clause 17(a), that it is the responsibility of the States/Territories to make the necessary arrangements to administer the HBG consistent with the terms, conditions, eligibility criteria and principles set out in Schedule A to the HomeBuilder NPA.
- The legislative facilitator for the HBG in South Australia is section 6A of the First Home and Housing Construction Grants Act 2000 (the "Act"), which relevantly provides that the Act applies to the HBG and entitlement to the HBG and the eligibility criteria will be determined by the Commissioner (and published on a website determined by the Commissioner, with the Commissioner using the RevenueSA website to articulate the eligibility criteria for the HBG) in accordance with the terms of the HomeBuilder NPA.
- The eligibility criteria for a new build requires that the combined consideration for the building contract and the market value of the land does not exceed \$750,000.
- The eligibility criteria for a substantial renovation requires that the value of the existing property (i.e. house and land before renovation) does not exceed \$1.5 million.

Clause 12(1)

Clause 12(1)

Clause 12(1)

Clause 10(1), Clause 12(1)

- Further, there is also no scope for you, me or the Department of Treasury and Finance to alter the eligibility criteria for the HBG established by the Commonwealth Government, which are being applied uniformly across Australia.
- A draft response to ^{Clause 12(1)} [redacted] is attached for your consideration.

Lisa Smith

Lisa Smith
DEPUTY COMMISSIONER OF STATE TAXATION

Clause 12(1)

Contact Officer:	Mr Louis Moragiannis
Telephone or Email:	846 36537 or Louis.Moragiannis@sa.gov.au

Tonkin, Kate (DTF)

From: Kemp, Paula (DTF)
Sent: Thursday, 13 October 2022 10:29 AM
To: DTF:Treasurer Ministerial Correspondence
Cc: Davies, Shaun (DTF); Pitcher, Sandy (DTF)
Subject: Clause 12(1) - Homebuilder - Clause 12(1) (Vincent Tarzia MP)
Attachments: Clause 12(1) - HomeBuilder Grant - Clause 12(1) - TRS Minute.pdf; Clause 12(1) - HomeBuilder Grant - Clause 12(1) - TRS Letter.doc

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Returns

Good Morning,

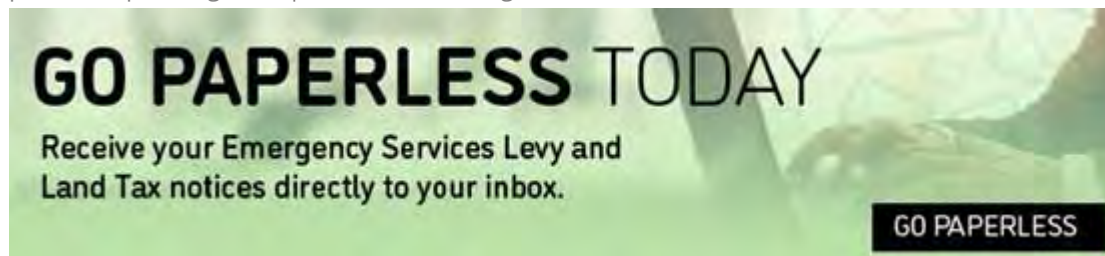
Please see attached correspondence for the Treasurer's consideration and signature. Thank you

Kind Regards,

Paula Kemp

Executive Assistant to the Commissioner of State Taxation & Deputy Commissioners' of State Taxation, Business Support Unit | RevenueSA

State Administration Centre, 200 Victoria Square ADELAIDE SA 5000t (08) 822 63784 | e paula.kemp2@sa.gov.au | w revenuesa.sa.gov.au



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MINUTE



Government of South Australia
Department of Treasury and Finance

MINUTES forming ENCLOSURE

File

Clause 12(1)

To The Treasurer

HOMEBUILDER GRANT – Clause 12(1)

Timing: ROUTINE — For your consideration and signature.

Recommendations/Issues: It is recommended that you:

- note the information below and sign the attached response to Clause 12(1)

Noted

Hon. Stephen Mullighan MP
Treasurer

Clause 12(1)

Key Points:

Clause 12(1)

- Relevantly, RevenueSA advised Clause 12(1)

Applications for the HomeBuilder Grant closed on midnight, 14 April 2021.

RevenueSA acknowledges your client's circumstances, however the Commissioner of State of Taxation and the Treasurer have no discretion to allow HomeBuilder Grant applications to be considered if they have not been submitted by midnight on 14 April 2021.



OFFICIAL: Sensitive

The Commonwealth has set clear guidelines that were required to be met and we do not have the ability to accept late applications.

Clause 12(1)

- As you are aware, the HBG is a Commonwealth Government initiative that is being administered in South Australia by the Commissioner of State Taxation and RevenueSA. The eligibility criteria for the HBG, including all the relevant dates associated with eligibility, have been set by the Commonwealth Government (and are published on RevenueSA's website in accordance with the National Partnership Agreement on HomeBuilder between the Commonwealth Government and the States/Territories, including South Australia).
- The deadline to apply for the HBG was midnight on Wednesday, 14 April 2021. This date was clearly and prominently publicised by both the Commonwealth Government and RevenueSA (on their respective websites and publications associated with the HBG).
- Relevantly, RevenueSA's website states the following at the beginning of its webpage associated with the HBG [emphasis added]:

If you did not submit your application by 14 April 2021 your application cannot be considered. Submitting an application means you reached the declaration page of your application and clicked submit. If you have created an application, and did not submit it by 14 April 2021, your application cannot be considered.

Please note that the Commissioner of State Taxation is not afforded any discretion to consider applications that were created but not submitted prior to 14 April 2021.

- Consequently, at midnight on 14 April 2021, the RevenueSA HBG application portal (consistent with all other jurisdictions using the HBG application portal) ceased to permit the submission of any new HBG applications, and it remains that if an application was not submitted by this time, regardless of the reasons, no discretion exists for the application to be considered.
- There is also no scope for you, me or the Department of Treasury and Finance to alter the eligibility criteria for the HBG set by the Commonwealth Government, which are being applied uniformly across Australia

Clause 12(1)

- A draft response to **Clause 12(1)** is attached for your consideration.

Lisa Smith

Lisa Smith
DEPUTY COMMISSIONER OF STATE TAXATION

Clause 12(1)

Contact Officer:	Mr Louis Moragiannis
Telephone or Email:	846 36537 or Louis.Moragiannis@sa.gov.au

MINUTE



MINUTES forming ENCLOSURE

File **Clause 12(1)**

To The Treasurer

Homebuilder Grant – **Clause 12(1)**

Timing: ROUTINE — For your consideration and signature.

Recommendations/Issues: It is recommended that you:

- note the information below and sign the attached response to the **Clause 12(1)**
Clause 12(1)

Noted

Hon. Stephen Mullighan MP
Treasurer

/ / 2022

Key Points:

- Clause 12(1)**
Grant (the "HBG") application.

Clause 12(1)

Clause 12(1) kindly requests that you investigate the status of **Clause 12(1)** application and provide a response.

Clause 12(1) also notes that, given the considerable consideration afforded **Clause 12(1)**
Clause 12(1)



Clause 12(1)

- A draft response to **Clause 12(1)** is attached for your consideration.

Julie Holmes

Julie Holmes
COMMISSIONER OF STATE TAXATION

Clause 12(1)

Contact Officer:	Mr Louis Moragiannis
Telephone or Email:	846 36537 or Louis.Moragiannis@sa.gov.au

Tonkin, Kate (DTF)

From: DTF:RevenueSA Ministerial Correspondence
Sent: Tuesday, 20 December 2022 3:23 PM
To: DTF:Treasurer Ministerial Correspondence
Cc: Davies, Shaun (DTF)
Subject: Clause 12(1) - HomeBuilder - Clause 12(1)
Attachments: Clause 12(1) - HomeBuilder Grant - Clause 12(1) - TRS Letter.doc; Clause 12(1) - HomeBuilder Grant - TRS Minute.pdf

Follow Up Flag: Follow up
Flag Status: Completed

OFFICIAL

Good Afternoon,

Please see attached correspondence for the Treasurer’s consideration and signature.

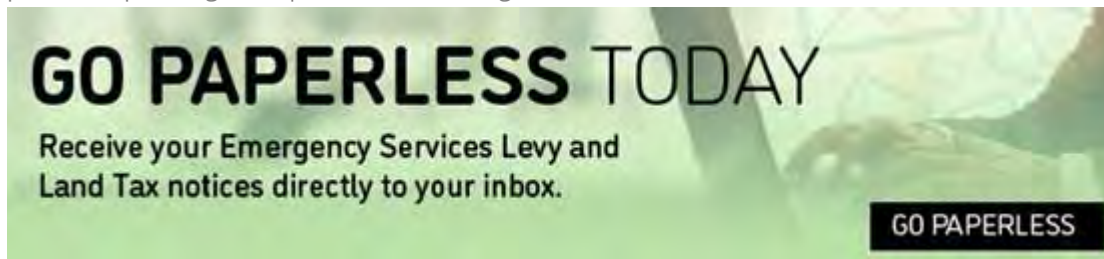
Thank you

Kind Regards,

Paula Kemp

Executive Assistant to the Commissioner of State Taxation & Deputy Commissioners’ of State Taxation, Business Support Unit | RevenueSA

State Administration Centre, 200 Victoria Square ADELAIDE SA 5000t (08) 822 63784 | e paula.kemp2@sa.gov.au | w revenuesa.sa.gov.au



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MINUTE



Government of South Australia
Department of Treasury and Finance

MINUTES forming ENCLOSURE

File

Clause 12(1)

To The Treasurer

HomeBuilder Grant – Clause 12(1)

Timing: ROUTINE — For your consideration and signature.

Recommendations/Issues: It is recommended that you:

- note the information below and sign the attached response to Clause 12(1)

Noted

Hon. Stephen Mullighan MP
Treasurer

Clause 12(1)

Key Points:

Clause 12(1)

- As you are aware, the HBG is a Commonwealth Government initiative that is being administered in South Australia by the Commissioner of State Taxation (“Commissioner”) and RevenueSA pursuant to the National Partnership Agreement on HomeBuilder (“HomeBuilder NPA”) between the Commonwealth Government and the States/Territories, including South Australia. The HomeBuilder NPA stipulates, at clause 17(a), that it is the responsibility of the States/Territories to make the necessary arrangements to administer the HBG consistent with the terms, conditions, eligibility criteria and principles set out in Schedule A to the HomeBuilder NPA.
- In South Australia, the HBG is available in accordance with section 6A of the *First Home and Housing Construction Grants Act 2000* (the “Act”), which relevantly provides that the Act applies to the HBG and entitlement to the HBG and the eligibility criteria will be determined by the Commissioner (and published on a website determined by the Commissioner, with the Commissioner using the



RevenueSA website to articulate the eligibility criteria for the HBG) in accordance with the terms of the HomeBuilder NPA.

- RevenueSA's website includes the following information:

"To qualify for the HomeBuilder Grant, building your home must commence no later than 18 months after signing the building contract. Building is taken to have commenced when site works including excavation for the approved building works to the top of the base level is complete.

Commencement must be supported by evidence such as a statutory declaration from the builder or a mandatory notification form which is used to notify local councils of stages of work.

...

Can I get an extension if building does not commence within 18 months of signing my building contract?

On 17 April 2021, the Australian Government announced it would extend the construction commencement requirements from 6 months to 18 months for all submitted applications (that is, for all contracts signed 4 June 2020 – 31 March 2021 inclusive).

The 18 month time limit is a strict requirement. The Commissioner has no discretion to provide any extensions beyond the 18 months."

- It follows that, if construction does not commence within 18 months of the building contract, the HBG applicant(s) is ineligible to receive the HBG.

Clause 12(1)

- The HBG eligibility criteria were set by the Commonwealth Government and are being applied uniformly across Australia. Accordingly, there is no scope for you, me or the Department of Treasury and Finance to amend the HBG eligibility criteria or to allow an application where construction does not commence within 18 months of contract execution, irrespective of the circumstances.
- A draft response to **Clause 12(1)** is attached for your consideration.

Julie Holmes

Julie Holmes
COMMISSIONER OF STATE TAXATION

Clause 12(1)

Contact Officer:	Mr Louis Moragiannis
Telephone or Email:	846 36537 or Louis.Moragiannis@sa.gov.au

Tonkin, Kate (DTF)

From: Moragiannis, Louis (DTF)
Sent: Thursday, 10 November 2022 3:10 PM
To: Davies, Shaun (DTF)
Cc: Maxwell, Paul (DTF)
Subject: RE: **Clause 12(1)** - HomeBuilder Grant - **Clause 12(1)**

Follow Up Flag: Follow up
Flag Status: Flagged

OFFICIAL

Hello Shaun.

If you are referring to this quote, then I think changing the first paragraph of the quote is also ok too:

“To qualify for the HomeBuilder Grant, building your home must commence no later than 18 months after signing the building contract. Building is taken to have commenced when site works including excavation for the approved building works to the top of the base level is complete.”

Kind regards,

Louis Moragiannis
Senior Policy Officer, Legislative Services | RevenueSA

GPO Box 1353 ADELAIDE SA 5001
t +61 8 846 36537 | e Louis.Moragiannis@sa.gov.au | w revenuesa.sa.gov.au



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From: Davies, Shaun (DTF) <Shaun.Davies@sa.gov.au>
Sent: Thursday, 10 November 2022 3:04 PM
To: Moragiannis, Louis (DTF) <Louis.Moragiannis@sa.gov.au>
Cc: Maxwell, Paul (DTF) <Paul.Maxwell@sa.gov.au>
Subject: RE: **Clause 12(1)** - HomeBuilder Grant - **Clause 12(1)**

OFFICIAL

Hi Louis

I was intending to change the quote too, since it otherwise refers to a sales contract.

If you look [here](#), there is a separate quote for new builds (which differs only slightly).

SD

From: Moragiannis, Louis (DTF) <Louis.Moragiannis@sa.gov.au>
Sent: Thursday, 10 November 2022 2:56 PM
To: Davies, Shaun (DTF) <Shaun.Davies@sa.gov.au>
Cc: Maxwell, Paul (DTF) <Paul.Maxwell@sa.gov.au>
Subject: RE: **Clause 12(1)** - HomeBuilder Grant - **Clause 12(1)**

OFFICIAL

Hello Shaun.

Yes (unless it forms part of the quotation).

Kind regards,

Louis Moragiannis

Senior Policy Officer, Legislative Services | RevenueSA

GPO Box 1353 ADELAIDE SA 5001

t +61 8 846 36537 | e Louis.Moragiannis@sa.gov.au | w revenuesa.sa.gov.au



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From: Davies, Shaun (DTF) <Shaun.Davies@sa.gov.au>
Sent: Thursday, 10 November 2022 2:47 PM
To: Moragiannis, Louis (DTF) <Louis.Moragiannis@sa.gov.au>
Cc: Maxwell, Paul (DTF) <Paul.Maxwell@sa.gov.au>
Subject: FW: **Clause 12(1)** - HomeBuilder Grant - **Clause 12(1)**

OFFICIAL

Hi Louis

I refer to the above matter.

The draft response includes information about both off-the-plan (/sales contract) and building contract transactions – am ok to make all references to building contracts?

SD

From: DTF:RevenueSA Ministerial Correspondence <RevenueSAMinisterialCorrespondence@sa.gov.au>
Sent: Thursday, 10 November 2022 10:21 AM
To: DTF:Treasurer Ministerial Correspondence <DTFTreasurerMinisterialCorrespondence@sa.gov.au>
Cc: Davies, Shaun (DTF) <Shaun.Davies@sa.gov.au>
Subject: **Clause 12(1)** - HomeBuilder Grant - **Clause 12(1)**

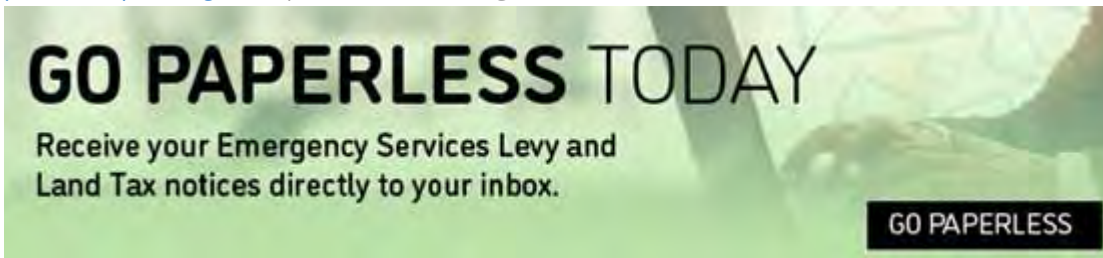
OFFICIAL

Good Morning,

Please see attached correspondence for the Treasurer’s consideration and signature. Thank you

Kind Regards,

Paula Kemp
Executive Assistant to the Commissioner of State Taxation & Deputy Commissioners’ of State Taxation, Business Support Unit | RevenueSA
State Administration Centre, 200 Victoria Square ADELAIDE SA 5000t (08) 822 63784 | e
paula.kemp2@sa.gov.au | w revenuesa.sa.gov.au



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MINUTE



Government
of South Australia
Department of Treasury
and Finance

MINUTES forming ENCLOSURE

File

Clause 12(1)

To The Treasurer

HOMEBUILDER GRANT – Clause 12(1)

Timing: ROUTINE — For your consideration and signature.

Recommendations/Issues: It is recommended that you:

- note the information below and sign the attached response to Clause 12(1)

Noted

Hon. Stephen Mullighan MP
Treasurer

Clause 12(1)

Key Points:

Clause 12(1)

- As you are aware, the HBG is a Commonwealth Government initiative that is being administered in South Australia by the Commissioner of State Taxation (the "Commissioner") and RevenueSA pursuant to the National Partnership Agreement on HomeBuilder (the "HomeBuilder NPA") between the Commonwealth Government and the States/Territories, including South Australia. The HomeBuilder NPA stipulates, at clause 17(a), that it is the responsibility of the States/Territories to make the necessary arrangements to administer the HBG consistent with the terms, conditions, eligibility criteria and principles set out in Schedule A to the HomeBuilder NPA.
- In South Australia, the HBG is available in accordance with section 6A of the *First Home and Housing Construction Grants Act 2000* (the "Act"), which relevantly provides that the Act applies to the HBG and entitlement to the HBG and the eligibility criteria will be determined by the Commissioner (and published on a website determined by the Commissioner, with the Commissioner using the RevenueSA website to articulate the eligibility criteria for the HBG) in accordance with the terms of the HomeBuilder NPA.
- RevenueSA's website provides, in accordance with the terms of the HomeBuilder NPA, that the following eligibility criteria applies in relation to "off the plan/new home" transactions:



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“Building of the home must have commenced on or after 4 June 2020 and no later than 18 months after signing the sales contract. Building is taken to have commenced when site works including excavation for the approved building works to the top of the base level is complete.”

- Further, RevenueSA’s website relevantly provides:

“Can I get an extension if building does not commence within 18 months of signing my building contract?”

On 17 April 2021, the Australian Government announced it would extend the construction commencement requirements from 6 months to 18 months for all submitted applications (that is, for all contracts signed 4 June 2020 – 31 March 2021 inclusive).

The 18 month time limit is a strict requirement. The Commissioner has no discretion to provide any extensions beyond the 18 months. [my emphasis added]

- As stated above, RevenueSA’s website clearly provides that construction must commence within 18 months of the sales contract, and an extension to this timing requirement cannot be granted.

Clause 12(1)

- The eligibility criteria for the HBG were set by the Commonwealth Government and are being applied uniformly across Australia. Accordingly, there is no scope for you, me or the Department of Treasury and Finance to amend the eligibility criteria for the HBG or to allow applications for the HBG where the eligibility criteria have not been met, regardless of the circumstances.

Clause 12(1)

- A draft response to **Clause 12(1)** is attached for your consideration.

Julie Holmes

Julie Holmes
COMMISSIONER OF STATE TAXATION

Clause 12(1)

Contact Officer:	Mr Louis Moragiannis
Telephone or Email:	846 36537 or Louis.Moragiannis@sa.gov.au

Tonkin, Kate (DTF)

From: DTF:RevenueSA Ministerial Correspondence
Sent: Thursday, 24 November 2022 2:20 PM
To: DTF:Treasurer Ministerial Correspondence
Cc: Davies, Shaun (DTF)
Subject: Clause 12(1) - HomeBuilder Grant - Objection - Clause 12(1)
Attachments: Clause 12(1) - HomeBuilder Grant Objection - Clause 12(1) - TRS Summary
Minute.pdf; Clause 12(1) - HomeBuilder Grant Objection - Clause 12(1) - TRS
Letter.doc

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Returns

OFFICIAL

Good afternoon
Please see attached correspondence for the Treasurer’s consideration and signature.

Kind regards

Susan Shanahan
Senior Business Support Officer – Business Support Team | RevenueSA

GPO Box 1353 ADELAIDE SA 5001
t 820 71982 | e susan.shanahan@sa.gov.au | w revenuesa.sa.gov.au



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MINUTE



Government of South Australia
Department of Treasury and Finance

MINUTES forming ENCLOSURE

File

Clause 12(1)

To The Treasurer

HOMEBUILDER GRANT – OBJECTION – Clause 12(1)

Timing: ROUTINE — For your consideration and signature.

Recommendations/Issues: It is recommended that you:

- Clause 12(1), Clause 10(1)
- sign the attached response to Clause 12(1)

Clause 10(1), Clause 12(1)

Hon. Stephen Mullighan MP
Treasurer

Clause 12(1)

Key Points:

Clause 12(1)



Clause 12(1)

Clause 12(1)

Clause 10(1), Clause 12(1)

Clause 10(1), Clause 12(1)

Lisa Smith

Lisa Smith
DEPUTY COMMISSIONER OF STATE TAXATION

Clause 12(1)

Contact Officer:	Mr Louis Moragiannis
Telephone or Email:	846 36537 or Louis.Moragiannis@sa.gov.au

Tonkin, Kate (DTF)

From: DTF:RevenueSA Ministerial Correspondence
Sent: Friday, 18 November 2022 2:24 PM
To: DTF:Treasurer Ministerial Correspondence
Cc: Davies, Shaun (DTF)
Subject: Clause 12(1) - HomeBuilder - Clause 12(1)
Attachments: Minute to Treasurer - Clause 12(1).pdf; Treasurer's Letter - Clause 12(1).doc

Follow Up Flag: Follow up
Flag Status: Completed

OFFICIAL

Good afternoon

Please see attached correspondence for the Treasurer's consideration and signature. Thank you

Kind regards

Susan Shanahan

Senior Business Support Officer – Business Support Team | RevenueSA

GPO Box 1353 ADELAIDE SA 5001

t 820 71982 | e susan.shanahan@sa.gov.au | w revenuesa.sa.gov.au



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MINUTE



MINUTES forming ENCLOSURE

File **Clause 12(1)**

To The Treasurer


HOMEBUILDER GRANT – **Clause 12(1)**

Timing: ROUTINE — For your consideration and signature.

Recommendations/Issues: It is recommended that you:

- note the information below and sign the attached response to **Clause 12(1)**

Noted



Hon. Stephen Mullighan MP
Treasurer
Clause 12(1)

Key Points:

Clause 12(1)

Background

Clause 12(1)



Clause 12(1)

- Accordingly, I am now satisfied that the Applicants satisfy the eligibility criteria for the HBG.

Clause 12(1)

- A draft response to **Clause 12(1)** is attached for your consideration.

Julie Holmes

Julie Holmes
COMMISSIONER OF STATE TAXATION

Clause 12(1)

Contact Officer:	Mr Peter Janicki
Telephone:	8207 2134
Email:	peter.janicki@sa.gov.au

Tonkin, Kate (DTF)

From: DTF:RevenueSA Ministerial Correspondence
Sent: Friday, 18 November 2022 2:26 PM
To: DTF:Treasurer Ministerial Correspondence
Cc: Davies, Shaun (DTF)
Subject: Clause 12(1) - HomeBuilder Grant - Clause 12(1)
Attachments: Clause 12(1) - HomeBuilder Grant - Clause 12(1) - TRS Minute.pdf; Clause 12(1) - HomeBuilder Grant - Clause 12(1) - TRS Letter.doc

Follow Up Flag: Follow up
Flag Status: Completed

OFFICIAL

Good afternoon

Please see attached correspondence for the Treasurer’s consideration and signature. Thank you

Kind regards

Susan Shanahan

Senior Business Support Officer – Business Support Team | RevenueSA

GPO Box 1353 ADELAIDE SA 5001

t 820 71982 | e susan.shanahan@sa.gov.au | w revenuesa.sa.gov.au

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MINUTE



Government
of South Australia
Department of Treasury
and Finance

MINUTES forming ENCLOSURE

File

Clause 12(1)

To The Treasurer

HOMEBUILDER GRANT – Clause 12(1)

Timing: ROUTINE — For your consideration and signature.

Recommendations/Issues: It is recommended that you:

- note the information below and sign the attached response to the

Clause 12(1)

Clause 12(1)

Noted

Hon. Stephen Mullighan MP
Treasurer

Clause 12(1)

Key Points:

- By letter dated Clause 12(1) wrote to you about Clause 12(1)

Clause 12(1)

- As you are aware, the HBG is a Commonwealth Government initiative that is being administered in South Australia by the Commissioner of State Taxation and RevenueSA. The eligibility criteria for the HBG, including all the relevant dates associated with eligibility, have been set by the Commonwealth Government (and are published on RevenueSA's website in accordance with the National Partnership Agreement on HomeBuilder between the Commonwealth Government and the States/Territories, including South Australia).
- The deadline to apply for the HBG was midnight on Wednesday, 14 April 2021. This date was clearly and prominently publicised by both the Commonwealth Government and RevenueSA (on their respective websites and publications associated with the HBG).
- Relevantly, RevenueSA's website states the following at the beginning of its webpage associated with the HBG [emphasis added]:



OFFICIAL: Sensitive

If you did not submit your application by 14 April 2021 your application cannot be considered. Submitting an application means you reached the declaration page of your application and clicked submit. If you have created an application, and did not submit it by 14 April 2021, your application cannot be considered.

Please note that the Commissioner of State Taxation is not afforded any discretion to consider applications that were created but not submitted prior to 14 April 2021.

- Consequently, at midnight on 14 April 2021, the RevenueSA HBG application portal (consistent with all other jurisdictions using the HBG application portal) ceased to permit the submission of any new HBG applications, and it remains that if an application was not submitted by this time, regardless of the reasons, no discretion exists for the application to be considered.
- There is also no scope for you, me or the Department of Treasury and Finance to alter the eligibility criteria for the HBG set by the Commonwealth Government, which are being applied uniformly across Australia.
- A draft response to **Clause 12(1)** is attached for your consideration.

Julie Holmes

Julie Holmes
COMMISSIONER OF STATE TAXATION

Clause 12(1)

Contact Officer:	Mr Louis Moragiannis
Telephone or Email:	846 36537 or Louis.Moragiannis@sa.gov.au

Tonkin, Kate (DTF)

From: DTF:RevenueSA Ministerial Correspondence
Sent: Thursday, 22 December 2022 8:49 AM
To: DTF:Treasurer Ministerial Correspondence
Cc: Davies, Shaun (DTF)
Subject: Clause 12(1) - HomeBuilder - [REDACTED]
Attachments: Clause 12(1) - HomeBuilder - Clause 12(1) - Minute to Treasurer - Clause 12(1).pdf;
 Clause 12(1) - HomeBuilder - Clause 12(1) - Treasurer's Letter - Clause 12(1).doc

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Returns

OFFICIAL

Good Morning,

Please see attached correspondence for the Treasurer’s consideration and signature.

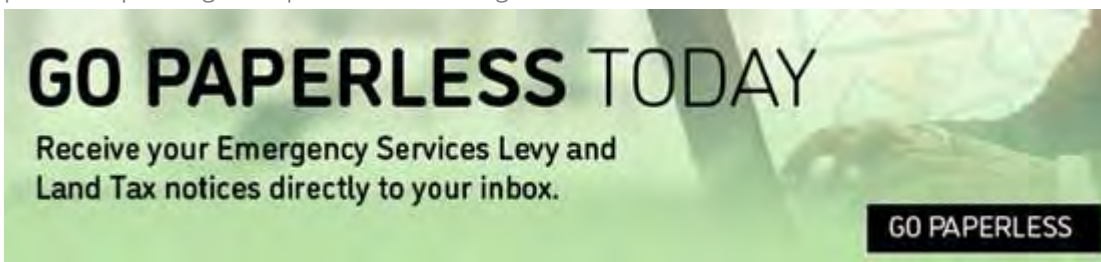
Thank you

Kind Regards,

Paula Kemp

Executive Assistant to the Commissioner of State Taxation & Deputy Commissioners’ of State Taxation, Business Support Unit | RevenueSA

State Administration Centre, 200 Victoria Square ADELAIDE SA 5000t (08) 822 63784 | e paula.kemp2@sa.gov.au | w revenuesa.sa.gov.au



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MINUTE



MINUTES forming ENCLOSURE

File

Clause 12(1)

To The Treasurer

Homebuilder Grant – Clause 12(1)

Timing: ROUTINE — For your consideration and signature.

Recommendations/Issues: It is recommended that you:

- note the information below and sign the attached response to Clause 12(1)

Noted

Hon. Stephen Mullighan MP
Treasurer

Clause 12(1)

Key Points:

Clause 12(1)

Background

Clause 12(1)



Clause 12(1)

Clause 10(1), Clause 12(1)

Clause 12(1)

- A draft response to **Clause 12(1)** is attached for your consideration.

Paul Maxwell

Paul Maxwell
A/DEPUTY COMMISSIONER OF STATE TAXATION

Clause 12(1)

Contact Officer:	Mr Peter Janicki
Telephone:	8207 2134
Email:	peter.janicki@sa.gov.au

Tonkin, Kate (DTF)

From: Maxwell, Paul (DTF)
Sent: Thursday, 2 February 2023 12:58 PM
To: Davies, Shaun (DTF)
Cc: Giorgio, Joshua (DTF)
Subject: RE: Notice of Objection_Home BHuilder Grant **Clause 12(1)**-Outcome Letter
Attachments: FW: Ack Letter - **Clause 12(1)**
Follow Up Flag: Follow up
Flag Status: Flagged

OFFICIAL

Hi Shaun

We should have this to CSO shortly.

Please find attached a draft Ack Letter that Josh provided back in the middle of December 2022.

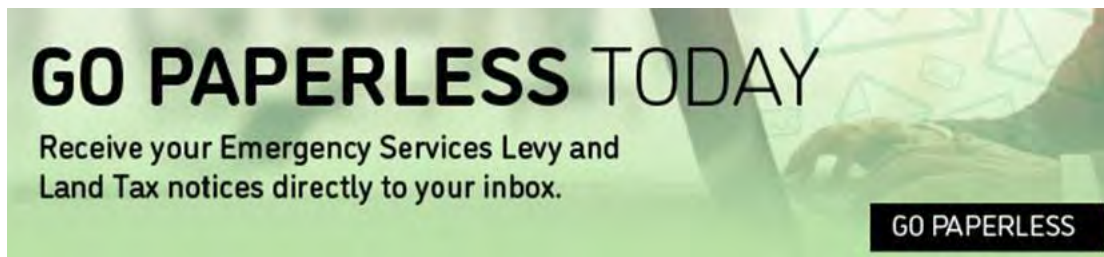
Kind regards

Paul Maxwell

Manager, Legislative Services | RevenueSA

GPO Box 1353 ADELAIDE SA 5001

t 8226 3790 | e paul.maxwell@sa.gov.au | w revenuesa.sa.gov.au



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From: Davies, Shaun (DTF) <Shaun.Davies@sa.gov.au>
Sent: Thursday, 2 February 2023 12:07 PM
To: Maxwell, Paul (DTF) <Paul.Maxwell@sa.gov.au>
Subject: FW: Notice of Objection_Home BHuilder Grant **Clause 12(1)**-Outcome Letter

OFFICIAL

Hi Paul

I just received a call from **Clause 12(1)** regarding the attached objection (**Clause 12(1)**) and agreed to follow it up.

Is it possible to advise progress? From my records, a draft ack was due on 13/12, which I don't believe we've received.

Kind regards

Shaun Davies

Ministerial Liaison Officer

Office of the Treasurer

The Hon. Stephen Mullighan MP

Level 8 | 200 Victoria Square ADELAIDE SA 5000

t 820 41492 e shaun.davies@sa.gov.au

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Government of South Australia

Department of Treasury
and Finance

From: **Clause 12(1)**

Sent: Tuesday, 6 December 2022 12:16 AM

To: DTF:Treasurer <treasurer.dtf@sa.gov.au>

Subject: Notice of Objection_Home BUILDER Grant **Clause 12(1)**-Outcome Letter

Good morning,

Please find Objection letter and documents in relation to Home Builder Grant Application **Clause 12(1)** attached herewith.

Kind regards,

Clause 12(1)

Tonkin, Kate (DTF)

From: DTF:RevenueSA Ministerial Correspondence
Sent: Friday, 9 December 2022 2:22 PM
To: DTF:Treasurer Ministerial Correspondence
Cc: Davies, Shaun (DTF)
Subject: Clause 12(1) - HomeBuilder Grant - Clause 12(1)
Attachments: Clause 12(1) - HomeBuilder Grant - Clause 12(1) - TRS 2nd Letter.doc; Clause 12(1) - HomeBuilder Grant - Clause 12(1) - TRS 2nd Minute.pdf

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Returns

OFFICIAL

Good Afternoon,

Please see attached correspondence for the Treasurer’s consideration and signature. Thank you

Kind Regards,

Paula Kemp
 Executive Assistant to the Commissioner of State Taxation & Deputy Commissioners’ of State Taxation, Business Support Unit | RevenueSA
 State Administration Centre, 200 Victoria Square ADELAIDE SA 5000 **t** (08) 822 63784 | **e** paula.kemp2@sa.gov.au | **w** revenuesa.sa.gov.au



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MINUTE



Government of South Australia
Department of Treasury and Finance

MINUTES forming ENCLOSURE

File

Clause 12(1)

To The Treasurer

HOMEBUILDER GRANT – Clause 12(1)

Timing: ROUTINE — For your consideration and signature.

Recommendations/Issues: It is recommended that you:

- note the information below and sign the attached response to Clause 12(1)

Noted

Hon. Stephen Mullighan MP
Treasurer

Clause 12(1)

Key Points:

Clause 12(1)

- The HBG eligibility criteria were set by the Commonwealth Government and are being applied uniformly across Australia.
- Unfortunately, there is no scope for you, the Commissioner of State Taxation or the Department of Treasury and Finance to amend the HBG eligibility criteria or allow an application where construction does not commence within 18 months of contract execution, irrespective of the circumstances.

Clause 12(1)



Clause 12(1)

there is no scope or discretion for you, the Commissioner of State Taxation or the Department of Treasury and Finance to amend the HBG eligibility criteria or allow an application where construction does not commence within 18 months of contract execution, irrespective of the circumstances.

- A draft response to **Clause 12(1)** is attached for your consideration.

Julie Holmes

Julie Holmes
COMMISSIONER OF STATE TAXATION

Clause 12(1)

Contact Officer:	Mr Louis Moragiannis
Telephone or Email:	846 36537 or Louis.Moragiannis@sa.gov.au

Tonkin, Kate (DTF)

From: DTF:RevenueSA Ministerial Correspondence
Sent: Friday, 27 January 2023 1:57 PM
To: DTF:Treasurer Ministerial Correspondence
Cc: Davies, Shaun (DTF)
Subject: Clause 12(1) - HomeBuilder Grant - Clause 12(1)
Attachments: Clause 12(1) - HomeBuilder Grant - Clause 12(1) - TRS Minute.pdf; Clause 12(1) - HomeBuilder Grant - Clause 12(1) - TRS Letter.doc

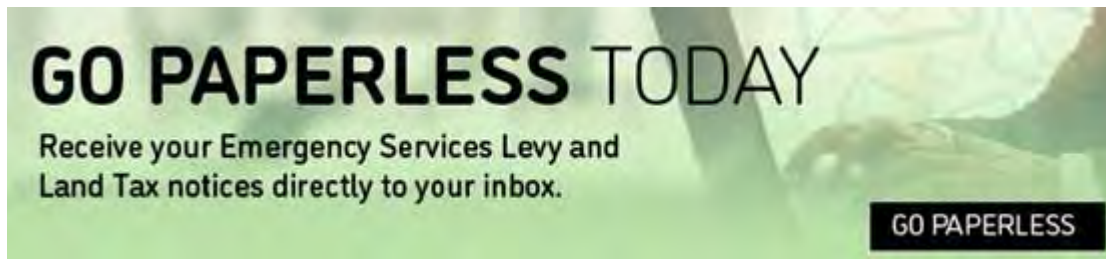
OFFICIAL

Good afternoon
Please find attached correspondence for the Treasurer’s consideration and signature.

Kind regards

Susan Shanahan
Senior Business Support Officer – Business Support Team | RevenueSA

GPO Box 1353 ADELAIDE SA 5001
t 820 71982 | e susan.shanahan@sa.gov.au | w revenuesa.sa.gov.au



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MINUTE



Government of South Australia
Department of Treasury and Finance

MINUTES forming ENCLOSURE

File **Clause 12(1)**

To The Treasurer

HOMEBUILDER GRANT – **Clause 12(1)**

Timing: ROUTINE — For your consideration and signature.

Recommendations/Issues: It is recommended that you:

- note the information below and sign the attached response to **Clause 12(1)**
[Redacted]

Noted

- note that on 29 November 2022, RevenueSA sent an email to all HomeBuilder Grant (“HBG”) applicants (approximately 1,400, **Clause 12(1)** [Redacted] were yet to submit all supporting documentation associated with their application, reminding them of the 30 April 2023 deadline to do so (and for which there can be no extensions).

Noted

Hon. Stephen Mullighan MP
Treasurer

Clause 12(1)

Key Points:

Clause 12(1)

“As a former Government program, HomeBuilder will continue as they designed. The former Government agreed the National Partnership



Agreement on HomeBuilder (NPA) with the States and Territories, which sets out the eligibility criteria and program deadlines.

The NPA requires that all applicants must lodge supporting documents by 30 April 2023 to be eligible for a grant. Unfortunately, this means that if you are unable to provide documentation by this date you will not be eligible to receive the HomeBuilder grant.

Under the terms of the NPA, the States and Territories are responsible for the administration of the scheme, including assessing eligibility. Unfortunately, the Commonwealth cannot intervene in a decision made by RevenueSA in the administration of the HomeBuilder program in respect of an individual application.”

- As the HBG falls within your portfolio of responsibilities, this matter has been referred to you for a direct response.

HBG eligibility criteria, including deadlines

- As you are aware, the HBG is a Commonwealth Government initiative that is being administered in South Australia by the Commissioner of State Taxation (“Commissioner”) and RevenueSA. The eligibility criteria for the HBG, including all the relevant timings associated with eligibility, have been set by the Commonwealth Government and are published on RevenueSA’s website in accordance with the National Partnership Agreement on HomeBuilder (the HomeBuilder NPA) between the Commonwealth Government and the States/Territories, including South Australia.
- In South Australia, the HBG is available in accordance with section 6A of the *First Home and Housing Construction Grants Act 2000* (the “Act”), which relevantly provides that HBG entitlements and eligibility criteria will be determined by the Commissioner (and published on a website determined by the Commissioner) in accordance with the terms of the HomeBuilder NPA.
- RevenueSA’s website includes three separate references to the fact that all documentation must be supplied/provided by 30 April 2023, including the following information:

“All documentation must be supplied by 30 April 2023.

...

All documentation must be provided by 30 April 2023.

...

You must supply all required documentation before 30 April 2023 but are encouraged to submit once you have all your documentation available. Please note, your builder will be able to provide you with the above documentation, however it is not your builder’s responsibility to submit to RevenueSA on your behalf.”

Clause 12(1)

Clause 12(1)

- The HBG eligibility criteria were set by the Commonwealth Government and are being applied uniformly across Australia. Accordingly, there is no scope for you, me or the Department of Treasury and Finance to amend the HBG eligibility criteria or to allow a HBG application where all supporting documentation is not submitted by the 30 April 2023 deadline, irrespective of the circumstances.
- A draft response to **Clause 12(1)** is attached for your consideration.

Potential Advertiser article

- On 19 January 2023, Ms Kathryn Bermingham, State Political Editor, The Advertiser, wrote to the Department of the Premier and Cabinet ("DPC") about the HBG 30 April 2023 deadline and whether it would be extended, for the purposes of a story that was originally intended to be run over the weekend of 21-22 January 2023.
- On 20 January 2023, RevenueSA provided DPC with a draft response to Ms Bermingham's queries, which included the main points outlined above. We are not aware of any media article being published to date.

Julie Holmes

Julie Holmes
COMMISSIONER OF STATE TAXATION

Clause 12(1)

Contact Officer:	Mr Louis Moragiannis
Telephone or Email:	846 36537 or Louis.Moragiannis@sa.gov.au

Tonkin, Kate (DTF)

From: DTF:RevenueSA Ministerial Correspondence
Sent: Friday, 3 February 2023 2:07 PM
To: DTF:Treasurer Ministerial Correspondence
Cc: Davies, Shaun (DTF)
Subject: Clause 12(1) - HomeBuilder - Clause 12(1)
Attachments: Clause 12(1) - HomeBuilder Grant - Clause 12(1) - TRS Letter.doc; Clause 12(1) - HomeBuilder Grant - Clause 12(1) - TRS Minute.pdf

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Returns

OFFICIAL: Sensitive

Good Afternoon,

Please see attached correspondence for the Treasurer's consideration and signature. Thank you.

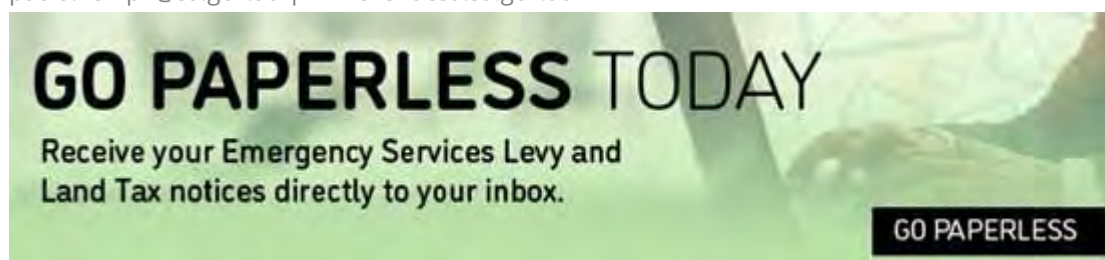
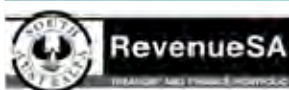
Kind Regards,

Paula Kemp

Executive Assistant to the Commissioner of State Taxation & Deputy Commissioners' of State Taxation, Business Support Unit | RevenueSA

State Administration Centre, 200 Victoria Square ADELAIDE SA 5000t (08) 822 63784 | e

paula.kemp2@sa.gov.au | w revenuesa.sa.gov.au

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Tonkin, Kate (DTF)

From: DTF:RevenueSA Ministerial Correspondence
Sent: Friday, 3 February 2023 1:50 PM
To: DTF:Treasurer Ministerial Correspondence
Cc: Davies, Shaun (DTF)
Subject: Clause 12(1) - HomeBuilder - Clause 12(1)
Attachments: Clause 12(1) - HBG - Clause 12(1) - TRS Letter.docx; Clause 12(1) - HBG - Clause 12(1) - TRS Minute.pdf; Clause 12(1) - OUTGOING RESPONSE - HOMEBUILDER GRANT - Clause 12(1).pdf; Clause 12(1) - FINAL MINUTE - HOMEBUILDER GRANT - Clause 12(1) - received 06_10_2022.pdf

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Returns

OFFICIAL: Sensitive

Good Afternoon,

Please see attached correspondence for the Treasurer's consideration and signature.

Thank you

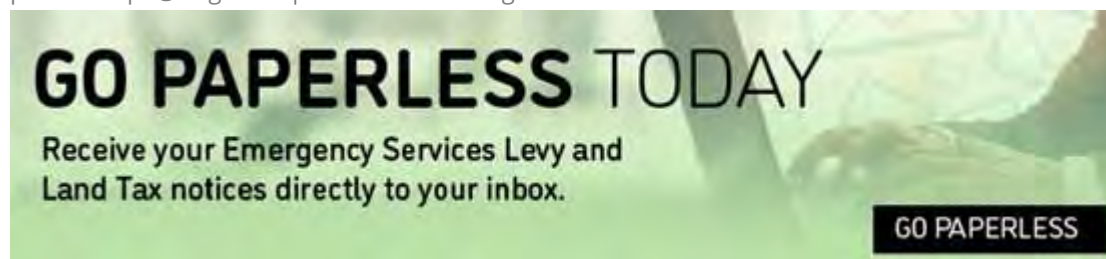
Kind Regards,

Paula Kemp

Executive Assistant to the Commissioner of State Taxation & Deputy Commissioners' of State Taxation, Business Support Unit | RevenueSA

State Administration Centre, 200 Victoria Square ADELAIDE SA 5000t (08) 822 63784 | e

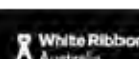
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Tonkin, Kate (DTF)

From: DTF:RevenueSA Ministerial Correspondence
Sent: Tuesday, 7 February 2023 1:50 PM
To: DTF:Treasurer Ministerial Correspondence
Cc: Davies, Shaun (DTF)
Subject: Clause 12(1) - HomeBuilder Grant - Clause 12(1)
Attachments: Clause 12(1) - HomeBuilder Grant - Clause 12(1) - TRS Minute.pdf; Clause 12(1) - HomeBuilder Grant - Clause 12(1) - TRS Letter.doc

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Returns

OFFICIAL: Sensitive

Good Afternoon,

Please see attached correspondence for the Treasurer’s consideration and signature.

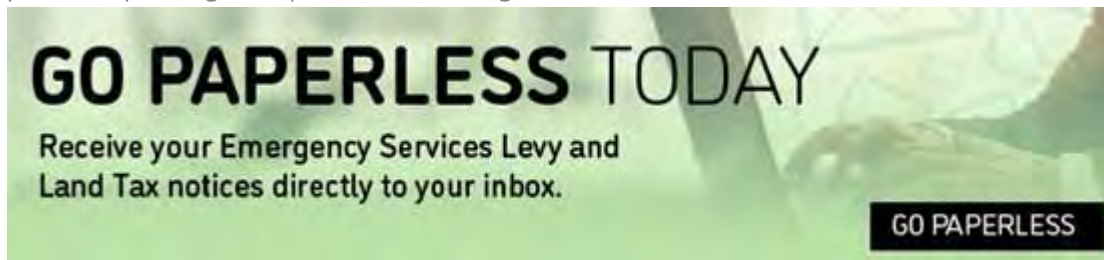
Thank you

Kind Regards,

Paula Kemp

Executive Assistant to the Commissioner of State Taxation & Deputy Commissioners’ of State Taxation, Business Support Unit | RevenueSA

State Administration Centre, 200 Victoria Square ADELAIDE SA 5000t (08) 822 63784 | e paula.kemp2@sa.gov.au | w revenuesa.sa.gov.au



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MINUTE



MINUTES forming ENCLOSURE

File

Clause 12(1)

To The Treasurer

HomeBUILDER GRANT – Clause 12(1)

Timing: ROUTINE — For your consideration and signature.

Recommendations/Issues: It is recommended that you:

- note the information below and sign the attached response to Clause 12(1)

Noted

Hon. Stephen Mullighan MP
Treasurer

/ / 2023

Key Points:

- By letter dated Clause 12(1) wrote to you, on behalf of Clause 12(1) Commonwealth Government's HomeBuilder Grant ("HBG") scheme.
- As you are aware, the HBG eligibility criteria were set by the Commonwealth Government and are being applied uniformly across Australia. This includes that all supporting documentation associated with a HBG application must be submitted by 30 April 2023, otherwise the applicant(s) will be ineligible to receive the HBG.
- There is also no scope for you, me or the Department of Treasury and Finance to amend the HBG eligibility criteria or to allow a HBG application where all supporting documentation is not submitted by the 30 April 2023 deadline, irrespective of the circumstances.
- As self-explanatory draft response to Clause 12(1) is attached for your consideration.



Clause 12(1)

Julie Holmes

Julie Holmes
COMMISSIONER OF STATE TAXATION

Clause 12(1)

Contact Officer:	Mr Louis Moragiannis
Telephone or Email:	846 36537 or Louis.Moragiannis@sa.gov.au

OFFICIAL: Sensitive

MINUTE



Government of South Australia

Department of Treasury and Finance

MINUTES forming ENCLOSURE

File

Clause 12(1)

To The Treasurer

HOMEBUILDER GRANT - Clause 12(1)

Timing: ROUTINE — For your consideration and signature.

Recommendations/Issues: It is recommended that you:

Clause 12(1), Clause 10(1)

Clause 10(1), Clause 12(1)

- sign the attached draft responses (x2) to Clause 12(1)

Hon. Stephen Mullighan MP
Treasurer

Clause 12(1)

Key Points:

Clause 12(1)



Clause 12(1)

Clause 10(1), Clause 12(1)

- Draft responses to **Clause 12(1)** are attached for your signature.

Lisa Smith

Lisa Smith
DEPUTY COMMISSIONER OF STATE TAXATION

Clause 12(1)

Contact Officer:	Mr Peter Janicki
Telephone:	8207 2134
Email:	peter.janicki@sa.gov.au

Tonkin, Kate (DTF)

From: DTF:RevenueSA Ministerial Correspondence
Sent: Thursday, 13 October 2022 3:56 PM
To: DTF:Treasurer Ministerial Correspondence
Cc: Davies, Shaun (DTF); Pitcher, Sandy (DTF)
Subject: **Clause 12(1)** - Minute to Treasurer - **Clause 12(1)**
Attachments: **Clause 12(1)** Minute to Treasurer - **Clause 12(1)**.pdf;
Treasurer's Letter - **Clause 12(1)**.doc; Treasurer's Letter - **Clause 12(1)**.doc

Follow Up Flag: Follow up
Flag Status: Completed

Good Afternoon,

Please see attached correspondence for the Treasurer's consideration and signature. Thank you

Kind Regards,

Paula Kemp
Executive Assistant to the Commissioner of State Taxation & Deputy Commissioners' of State Taxation, Business Support Unit | RevenueSA
State Administration Centre, 200 Victoria Square ADELAIDE SA 5000t (08) 822 63784 | e paula.kemp2@sa.gov.au | w revenuesa.sa.gov.au



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MINUTE



Government of South Australia
Department of Treasury and Finance

MINUTES forming ENCLOSURE

File **Clause 12(1)**

To The Treasurer

HOMEBUILDER GRANT OBJECTION – **Clause 12(1)**

Timing: ROUTINE – For your consideration.

Recommendations/Issues: It is recommended that you:

- **Clause 10(1), Clause 12(1)**
- sign the attached response to **Clause 12(1)**

Clause 12(1)

Hon. Stephen Mullighan MP
Treasurer

Clause 12(1)

Key Points:

Clause 12(1)

Clause 10(1), Clause 12(1)



• **Clause 10(1)**

Lisa Smith

Lisa Smith
DEPUTY COMMISSIONER OF STATE TAXATION

Clause 12(1)

Contact Officer:	Mr Russell Fairley
Telephone:	820 71991
Email:	russell.fairley@sa.gov.au

Tonkin, Kate (DTF)

From: DTF:RevenueSA Ministerial Correspondence
Sent: Monday, 11 July 2022 12:26 PM
To: DTF:Treasurer
Cc: Davies, Shaun (DTF); Hughes, Anna (DTF); Beveridge, Ana (DTF)
Subject: Clause 12(1) - HomeBuilder - Clause 12(1)
Attachments: [Redacted] - HomeBuilder - [Redacted] - Minute to Treasurer.pdf; Treasurer's Letter - [Redacted] Clause 12(1)
 [Redacted].doc; RE: HomeBuilder Grant Application Outcome - [Redacted] Clause 12(1); RE: HomeBuilder Grant - [Redacted] Clause 12(1) - Final letter - Home Builder - [Redacted] Clause 12(1)
 [Redacted].pdf; HomeBuilder Grant - [Redacted] Clause 12(1); RE: HomeBuilder Grant Application Outcome - [Redacted] Clause 12(1) - Final minute - HomeBuilder - [Redacted] Clause 12(1)
 [Redacted] - HomeBuilder - [Redacted] Clause 12(1).pdf; Minute to CSO - [Redacted] Clause 12(1).pdf; Crown Advice - [Redacted] Clause 12(1).pdf

Good Afternoon,

Please see attached correspondence for the Treasurer’s consideration and signature.

Thank you

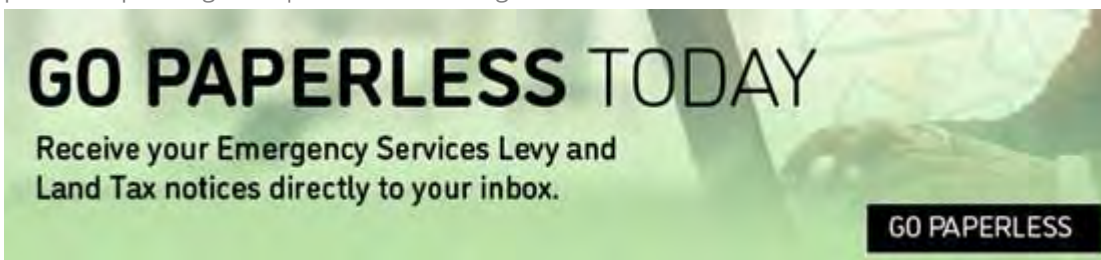
Kind Regards,

Paula Kemp

Executive Assistant to the Commissioner of State Taxation & Deputy Commissioners’ of State Taxation, Business Support Unit | RevenueSA

State Administration Centre, 200 Victoria Square ADELAIDE SA 5000t (08) 822 63784 | e

paula.kemp2@sa.gov.au | w revenuesa.sa.gov.au



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MINUTE



Government of South Australia
Department of Treasury and Finance

MINUTES forming ENCLOSURE

File **Clause 12(1)**

To The Treasurer

HOMEBUILDER GRANT – OBJECTION – **Clause 12(1)**

Timing: ROUTINE — For your consideration and signature.

Recommendations/Issues: It is recommended that you:

Clause 10(1), Clause 12(1)

- sign the attached response to **Clause 12(1)**

Clause 12(1)

Hon. Stephen Mullighan MP
Treasurer

Clause 12(1)

Key Points:

Clause 12(1)

Clause 7(1)(c), Clause 12(1)

Clause 12(1)

Clause 12(1)

Clause 10(1), Clause 12(1)

Lisa Smith

Lisa Smith
DEPUTY COMMISSIONER OF STATE TAXATION

Clause 12(1)

Contact Officer:	Mr Peter Janicki
Telephone:	8207 2134
Email:	peter.janicki@sa.gov.au

Tonkin, Kate (DTF)

From: DTF:RevenueSA Ministerial Correspondence
Sent: Tuesday, 30 August 2022 5:20 PM
To: DTF:Treasurer Ministerial Correspondence
Cc: Davies, Shaun (DTF); Pitcher, Sandy (DTF)
Subject: Clause 12(1) - HomeBuilder Grant - Clause 12(1)
Attachments: 2nd Minute to Treasurer - Clause 12(1).pdf; 2nd Treasurer's Letter - Clause 12(1).doc; Clause 12(1) - Final Minute.pdf; Clause 12(1) - Final Letter.pdf

Categories: Returns

Good afternoon

Please see attached correspondence for the Treasurer's consideration and signature. Thank you

Kind regards

Susan Shanahan

Senior Business Support Officer – Business Support Team | RevenueSA

GPO Box 1353 ADELAIDE SA 5001

t 820 71982 | e susan.shanahan@sa.gov.au | w revenuesa.sa.gov.au



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MINUTE



Government of South Australia
Department of Treasury and Finance

MINUTES forming ENCLOSURE

File

Clause 12(1)

To The Treasurer

HomeBuilder Grant - Clause 12(1)

Timing: ROUTINE — For your consideration and signature.

Recommendations/Issues: It is recommended that you:

- note the information below and sign the attached response to Clause 12(1)

Noted

Hon. Stephen Mullighan MP
Treasurer

Clause 12(1)

Key Points:

- Clause 12(1)

Commissioner of State Taxation to deny them a HomeBuilder Grant ("HBG").

Clause 12(1)



- I understand that, given the passage of time, your Office would like to close this matter.
- A recommended response to **Clause 12(1)** is attached for your consideration.

Julie Holmes

Julie Holmes
COMMISSIONER OF STATE TAXATION

Clause 12(1)

Contact Officer:	Mr Peter Janicki
Telephone:	8207 2134
Email:	peter.janicki@sa.gov.au

Tonkin, Kate (DTF)

From: DTF:RevenueSA Ministerial Correspondence
Sent: Friday, 9 September 2022 10:54 AM
To: DTF:Treasurer Ministerial Correspondence
Cc: Davies, Shaun (DTF); Pitcher, Sandy (DTF)
Subject: Clause 12(1) - Homebuilder Grant - Clause 12(1)
Attachments: Minute to Treasurer - Clause 12(1).pdf; Clause 12(1) - Homebuilder Grant - Letter - Clause 12(1).doc

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Returns

Good Morning,

Please see attached correspondence for the Treasurer’s consideration and signature. Thank you

Kind Regards,

Paula Kemp
 Executive Assistant to the Commissioner of State Taxation & Deputy Commissioners’ of State Taxation, Business Support Unit | RevenueSA
 State Administration Centre, 200 Victoria Square ADELAIDE SA 5000t (08) 822 63784 | e paula.kemp2@sa.gov.au | w revenuesa.sa.gov.au



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MINUTE



Government of South Australia
Department of Treasury and Finance

MINUTES forming ENCLOSURE

File

Clause 12(1)

To The Treasurer

HomeBUILDER GRANT – Clause 12(1)

Timing: ROUTINE — For your consideration and signature.

Recommendations/Issues: It is recommended that you:

- note the information below and sign the attached response to Clause 12(1)

Noted

Hon. Stephen Mullighan MP
Treasurer

Clause 12(1)

Key Points:

- Clause 12(1) in relation to a decision of the Commissioner of State Taxation (the "Commissioner") regarding Clause 12(1) application for the HomeBuilder Grant ("HBG").

Background

Clause 12(1)

- The eligibility criteria for the HBG states that substantial renovations can be either:
 - making a considerable change to your home; or



- demolishing your home and building a new home on the land.
- Substantial renovations are taken to mean that the renovation will:
 - substantially alter the existing dwelling (although this need not involve removal or replacement of foundations, external walls, interior supporting walls, floors, roof or staircases); and
 - improve the accessibility, safety or liveability of the home (or land by building a new home).
- Given these requirements, a substantial renovation does not generally include:
 - renovations that are primarily cosmetic in purpose such as landscaping, painting or recarpeting; or
 - stand-alone granny flats, swimming pools, tennis courts, and structures not connected to the building such as outdoor spas, saunas, sheds or stand-alone garages.

Clause 12(1)

- I understand that, given the passage of time, your Office would like to close this matter.
- A draft response to **Clause 12(1)** is attached for your consideration.

Julie Holmes

Julie Holmes
COMMISSIONER OF STATE TAXATION

Clause 12(1)

Contact Officer:	Mr Peter Janicki
Telephone:	8207 2134
Email:	peter.janicki@sa.gov.au

Tonkin, Kate (DTF)

From: DTF:RevenueSA Ministerial Correspondence
Sent: Thursday, 24 November 2022 12:02 PM
To: DTF:Treasurer Ministerial Correspondence
Cc: Davies, Shaun (DTF)
Subject: [Redacted] - Homebuilder Grant - Objection - **Clause 12(1)**
Attachments: [Redacted] - HomeBuilder Grant Objection - **Clause 12(1)** - TRS Summary Minute.pdf;
 [Redacted] - HomeBuilder Grant Objection - **Clause 12(1)** - TRS Determination Letter.doc; Crown Advice dated **Clause 12(1)** pdf

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Returns

OFFICIAL

Good afternoon
 Please see attached correspondence for the Treasurer’s consideration and signature.
 Crown Advice is also attached. Thank you.

Kind regards

Susan Shanahan
 Senior Business Support Officer – Business Support Team | RevenueSA

GPO Box 1353 ADELAIDE SA 5001
 t 820 71982 | e susan.shanahan@sa.gov.au | w revenuesa.sa.gov.au



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Government of South Australia

Department of Treasury and Finance

MINUTES forming ENCLOSURE

File **Clause 12(1)**

To The Treasurer

HOMEBUILDER GRANT – OBJECTION – **Clause 12(1)**

Timing: ROUTINE — For your consideration and signature.

Recommendations/Issues: It is recommended that you:

Clause 10(1), Clause 12(1)

- sign the enclosed letter to **Clause 12(1)**

Clause 12(1)

Hon. Stephen Mullighan MP
Treasurer

Clause 12(1)

Key Points:

Clause 12(1)

Clause 10(1), Clause 12(1)



• **Clause 10(1)**

Lisa Smith

Lisa Smith
DEPUTY COMMISSIONER OF STATE TAXATION

Clause 12(1)

Contact Officer:	Mr Joshua Giorgio
Telephone or Email:	8226 6530 or joshua.giorgio@sa.gov.au

Tonkin, Kate (DTF)

From: DTF:RevenueSA Ministerial Correspondence
Sent: Thursday, 7 July 2022 1:41 PM
To: DTF:Treasurer
Cc: Hughes, Anna (DTF); Beveridge, Ana (DTF); Davies, Shaun (DTF)
Subject: Clause 12(1) - HomeBuilder - Clause 12(1)
Attachments: Clause 12(1) - Minute to Treasurer - HomeBuilder - Clause 12(1).pdf; Clause 12(1) - Treasurer's Letter - HomeBuilder - Clause 12(1).doc; Re: URGENT Fw: Clause 12(1) - Ministerial Request Clause 12(1).pdf; HBG Notes Clause 10(1).pdf; HBG App Clause 12(1).pdf; Fw: Exemption from SA 25k building grant criteria; Clause 12(1).pdf

Categories: Returns

Good Afternoon,

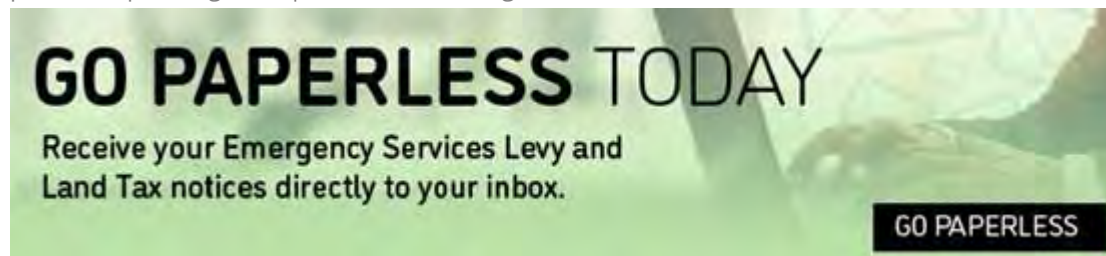
Please see attached correspondence for the Treasurer's consideration and signature. Thank you

Kind Regards,

Paula Kemp

Executive Assistant to the Commissioner of State Taxation & Deputy Commissioners' of State Taxation, Business Support Unit | RevenueSA

State Administration Centre, 200 Victoria Square ADELAIDE SA 5000t (08) 822 63784 | e paula.kemp2@sa.gov.au | w revenuesa.sa.gov.au



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MINUTE



Government of South Australia
Department of Treasury and Finance

MINUTES forming ENCLOSURE

File

Clause 12(1)

To The Treasurer

HOMEBUILDER GRANT – Clause 12(1)

Timing: ROUTINE — For your consideration and signature.

Recommendations/Issues: It is recommended that you:

- note the information below and sign the attached response to Clause 12(1)

Noted

Hon. Stephen Mullighan MP
Treasurer

Clause 12(1)

Key Points:

Clause 12(1)

Background

Clause 12(1)



Clause 12(1)

Eligibility criteria for the HBG

- As you are aware, the HBG is a Commonwealth Government initiative that is being administered in South Australia by the Commissioner of State Taxation (the "Commissioner") and RevenueSA pursuant to the National Partnership Agreement on HomeBuilder (the "HomeBuilder NPA") between the Commonwealth Government and the States/Territories, including South Australia. The HomeBuilder NPA stipulates, at Clause 17(a), that it is the responsibility of the States/Territories to make the necessary arrangements to administer the HBG consistent with the terms, conditions, eligibility criteria and principles set out in Schedule A to the HomeBuilder NPA.
- South Australia has chosen to make those arrangements via section 6A of the *First Home and Housing Construction Grants Act 2000* (the "Act"), which relevantly provides that entitlement to the HBG and the eligibility criteria will be determined by the Commissioner (and published on a website determined by the Commissioner) in accordance with the terms of the HomeBuilder NPA.
- The HomeBuilder NPA stipulates in Clause 13 of Schedule A, that an eligible owner-occupier will be the natural person who resides or intends to reside at the property. Notably, Clause 13.1 of Schedule A states that "*Where applicable, States should also have regard to their existing requirements for policies such as first home owner grants, in order to align definitions*".
- Accordingly, RevenueSA has aligned the Residence Requirement of the HBG with the existing requirements of the First Home Owner Grant, as outlined in section 12 of the Act.
- The RevenueSA website relevantly provides, in accordance with the terms of the HomeBuilder NPA and section 12 of the Act:

*"To qualify for the HomeBuilder Grant, you (and any other applicant to your HomeBuilder Grant application) must **retain ownership of the property and occupy it as your principal place of residence for a continuous period of at least 6 months**; and*

for a new build:

- *commence the above period of occupation within 12 months of the date of construction completing, ..."*

- Further, the HBG contents of RevenueSA's website relevantly provide:

"What should you do if you cannot meet the above residency requirements?"

You must notify RevenueSA and repay the HomeBuilder Grant within 14 days of the date you become aware you cannot meet the residency requirements. Checks that residency requirements have been met are routinely made by RevenueSA.

If you have genuine difficulties or complications in meeting the residency requirements please contact RevenueSA to discuss your situation. Where there are good reasons to do so, the Commissioner has the discretion to:

- *extend the 12 month period in which you must commence occupying your home;*
or

- *reduce the 6 month period for which you must occupy your home."*

Clause 12(1)

- RevenueSA apologises that it unfortunately did not respond to **Clause 12(1)** sooner, which occurred as a result of an isolated breakdown in communication in regard to who was responsible for responding to **Clause 12(1)** has reviewed its existing practices relating to incoming correspondence and now has a centralised contact person (with contingencies for absences) for incoming correspondence to mitigate this issue from occurring again.
- Notwithstanding the above, I am satisfied that **Clause 12** HBG application has been appropriately considered and assessed in accordance with the HBG content which has been clearly published on the website.
- Finally, the fundamental purpose of the HBG is to provide assistance with the construction, or renovation, of a home, that is, a house that will within a short period of time will become the principal place of residence of the owner/s. A property in which the owner/s has not lived and will not live in is outside the intended scope of the HBG.

Clause 12(1)

- A draft response to **Clause 12(1)** is attached for your consideration.

Julie Holmes

Julie Holmes
COMMISSIONER OF STATE TAXATION

Clause 12(1)

Contact Officer:	Mr Peter Janicki
Telephone or Email:	8207 2134 or peter.janicki@sa.gov.au

Tonkin, Kate (DTF)

From: Kemp, Paula (DTF)
Sent: Monday, 8 August 2022 2:42 PM
To: DTF:Treasurer
Cc: Davies, Shaun (DTF)
Subject: Clause 12(1) - HomeBuilder - Clause 12(1)
Attachments: [Redacted] - HBG Minute - [Redacted].pdf; Clause 12(1) - HBG Letter - [Redacted].doc; [Redacted] - HomeBuilder Rejection Letter Template (v.02LN) - e [Redacted].pdf; Clause 12(1) [Redacted].pdf; siteworks agreement [Redacted].pdf; [Redacted].pdf; Clause 12(1) [Redacted].pdf; - Correspondence [Redacted].pdf; Approval Letter Clause 12(1) [Redacted].pdf; Clause 12(1) [Redacted].pdf

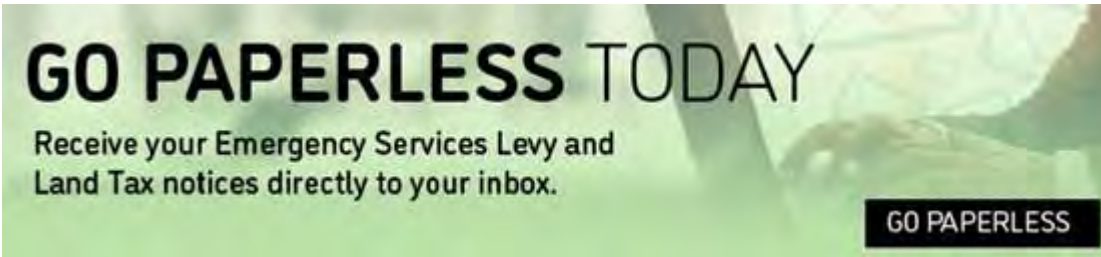
Categories: Returns

Good Afternoon,

Please see attached correspondence for the Treasurer’s consideration and signature. Thank you

Kind Regards,

Paula Kemp
 Executive Assistant to the Commissioner of State Taxation & Deputy Commissioners’ of State Taxation, Business Support Unit | RevenueSA
 State Administration Centre, 200 Victoria Square ADELAIDE SA 5000t (08) 822 63784 | e paula.kemp2@sa.gov.au | w revenuesa.sa.gov.au



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MINUTE



Government of South Australia
Department of Treasury and Finance

MINUTES forming ENCLOSURE

File **Clause 12(1)**

To The Treasurer

HOMEBUILDER GRANT - **Clause 12(1)**

Timing: ROUTINE – For your consideration.

Recommendations/Issues: It is recommended that you:

- note the information below and sign the attached letter to **Clause 12(1)**

Noted

Hon. Stephen Mullighan MP
Treasurer

Clause 12(1)

Key Points:

- On 4 July 2022, **Clause 12(1)** wrote to you purportedly objecting to a decision made by the Commissioner of State Taxation (the "Commissioner") to reject **Clause 12(1)** HomeBuilder Grant ("HBG") application.

Background

Clause 12(1)



Clause 12(1)

Clause 10(1), Clause 12(1)

Clause 12(1)

- A draft response to **Clause 12(1)** is attached for your consideration.

Julie Holmes

Julie Holmes
COMMISSIONER OF STATE TAXATION

Clause 12(1)

Contact Officer:	Mr Russell Fairley
Telephone:	820 71991
Email:	russell.fairley@sa.gov.au

Tonkin, Kate (DTF)

From: DTF:RevenueSA Ministerial Correspondence
Sent: Monday, 31 October 2022 10:54 AM
To: DTF:Treasurer Ministerial Correspondence
Cc: Davies, Shaun (DTF)
Subject: Clause 12(1) - HomeBuilder - Clause 12(1)
Attachments: Clause 12(1) - HomeBuilder - Clause 12(1) - Letter.doc; Clause 12(1) - HomeBuilder - Clause 12(1).pdf

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Returns

Good Morning,

Please see attached correspondence for the Treasurer’s consideration and signature. Thank you

Kind Regards,

Paula Kemp

Executive Assistant to the Commissioner of State Taxation & Deputy Commissioners’ of State Taxation, Business Support Unit | RevenueSA

State Administration Centre, 200 Victoria Square ADELAIDE SA 5000t (08) 822 63784 | e

paula.kemp2@sa.gov.au | w revenuesa.sa.gov.au



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Government of South Australia
Department of Treasury and Finance

MINUTES forming ENCLOSURE

File **Clause 12(1)**

To The Treasurer

HomeBuilder Grant - **Clause 12(1)**

Timing: ROUTINE — For your consideration and signature.

Recommendations/Issues: It is recommended that you:

- note the information below and sign the attached response to **Clause 12(1)**

Noted

Hon. Stephen Mullighan MP
Treasurer

Clause 12(1)

Key Points:

- By letter dated **Clause 12(1)** wrote to you in relation to a decision made by the Commissioner of State Taxation (the "Commissioner") regarding **Clause 12(1)** application for the HomeBuilder Grant ("HBG").

Background

Clause 12(1)

Clause 12(1)

- Accordingly, I am now satisfied that **Clause 12(1)** satisfies the eligibility criteria for the HBG.
- **Clause 12(1)**
- A draft response to **Clause 12(1)** is attached for your consideration.

Julie Holmes

Julie Holmes
COMMISSIONER OF STATE TAXATION

Clause 12(1)

Contact Officer:	Mr Peter Janicki
Telephone:	8207 2134
Email:	peter.janicki@sa.gov.au

Tonkin, Kate (DTF)

From: DTF:RevenueSA Ministerial Correspondence
Sent: Thursday, 18 August 2022 2:11 PM
To: DTF:Treasurer Ministerial Correspondence
Cc: Davies, Shaun (DTF)
Subject: Clause 12(1) - HomeBuilder - Clause 12(1)
Attachments: Clause 12(1) - HomeBuilder - Minute - Clause 12(1).pdf; Clause 12(1) - Treasurer's Letter - Clause 12(1) doc; HBG Notes Clause 12(1).pdf; HomeBuilder Grant Application - Clause 12(1).pdf; HBG Notes Clause 12(1)

Follow Up Flag: Follow up
Flag Status: Flagged

Good Afternoon,

Please see attached correspondence for the Treasurer’s consideration and signature. Thank you

Kind Regards,

Paula Kemp
 Executive Assistant to the Commissioner of State Taxation & Deputy Commissioners’ of State Taxation, Business Support Unit | RevenueSA
 State Administration Centre, 200 Victoria Square ADELAIDE SA 5000t (08) 822 63784 | e paula.kemp2@sa.gov.au | w revenuesa.sa.gov.au



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Government of South Australia
Department of Treasury and Finance

MINUTES forming ENCLOSURE

File

Clause 12(1)

To The Treasurer

HOMEBUILDER GRANT - Clause 12(1)

Timing: ROUTINE — For your consideration and signature.

Recommendations/Issues: It is recommended that you:

- note the information below and sign the attached response to

Clause 12(1)

Noted

Hon. Stephen Mullighan MP
Treasurer

Clause 12(1)

Key Points:

Clause 12(1)

Background

Clause 12(1)

Clause 12(1)

Eligibility criteria for the HBG

- As you are aware, the HBG is a Commonwealth Government initiative that is being administered in South Australia by the Commissioner and RevenueSA pursuant to the National Partnership Agreement on HomeBuilder (the "HomeBuilder NPA") between the Commonwealth Government and the States/Territories, including South Australia. The HomeBuilder NPA stipulates, at Clause 17(a), that it is the responsibility of the States/Territories to make the necessary arrangements to administer the HBG consistent with the terms, conditions, eligibility criteria and principles set out in Schedule A to the HomeBuilder NPA.
- In South Australia, the HBG is available in accordance with section 6A of the *First Home and Housing Construction Grants Act 2000* (the "Act"), which relevantly provides that entitlement to the HBG and the eligibility criteria will be determined by the Commissioner (and published on a website determined by the Commissioner) in accordance with the terms of the HomeBuilder NPA.
- Clause 18 of Schedule A of the HomeBuilder NPA stipulates that a renovation is substantial if, *inter alia*,:
 - The renovation substantially alters the existing dwelling...; and
 - The renovation will improve the accessibility or safety or liveability of that property.

- The “Evidentiary Requirements” section of the HomeBuilder NPA also provides that applicants be required to provide a statutory declaration, or some other evidence, that “the renovation substantially alters the existing dwelling or where all or substantially all, of the existing dwelling is removed or replaced”. [my emphasis]

- The relevant eligibility criteria for the HBG, as outlined on RevenueSA’s website states:

“I have demolished my home. Is it a substantial renovation or new build?”

If you own property (house and land) and demolished the house to rebuild on or after 4 June 2020, the application will be assessed against the eligibility criteria for a substantial renovation.

If the demolition occurred before 4 June 2020 (that is the property was vacant land as at 4 June 2020), the application will be assessed against the eligibility criteria for a new build.”

- The Commonwealth Government HomeBuilder FAQs also state, under ‘Substantial Renovations’:

“Are knock-down rebuilds considered “renovations”?”

Knock-down rebuilds are considered substantial renovations for the purposes of HomeBuilder.”

- After careful consideration of the HBG eligibility criteria as it relates to a “substantial renovation” knock-down rebuild, RevenueSA has concluded that the eligibility criteria does not specify the order in which construction is to proceed and the demolition is to occur. Put another way, there is no requirement that the existing dwelling be demolished prior to the new home being constructed.

Clause 12(1)

- However, RevenueSA considers that it is a requirement that the existing dwelling must be demolished in order for the HBG eligibility criteria for knockdown rebuilds to be satisfied.
- Further, Clause 9.1 of Schedule A of the HomeBuilder NPA stipulates that supporting documentation to the HBG application must be submitted by no later than 30 April 2023.

Clause 12(1)

Clause 12(1)

- A draft response to **Clause 12(1)** is attached for your consideration.

Julie Holmes

Julie Holmes
COMMISSIONER OF STATE TAXATION

Clause 12(1)

Contact Officer:	Mr Peter Janicki
Telephone:	8207 2134
Email:	peter.janicki@sa.gov.au