EXPLANATORY STATEMENT

GENERAL OUTLINE

This Bill amends the Stamp Duty Act, First Home Owner Grant Act and Motor Vehicles (Fees and Charges) Regulations. The changes made by the Bill form part of the 2012-13 Mini Budget and take effect from 4 December 2012 unless otherwise indicated.

The Stamp Duty Act is amended to:

- retarget first home owner assistance resulting in the stamp duty First Home Owner Concession ceasing;

- increase the Principal Place of Residence Rebate to $7000 and retarget the rebate towards new homes or vacant land on which a new home will be built.

The First Home Owner Grant Act is amended to:

- increase the First Home Owner Grant to $25 000 for all new homes and homes located in a regional area;

- increase the grant to $12 000 for established homes located outside a regional area; and

- reduce the “threshold amount” from homes valued up to $750 000 to homes valued up to $600 000.

The Motor Vehicles (Fees and Charges) Regulations are amended from 1 January 2013 to increase motor vehicle registration fees.
NOTES ON CLAUSES

PART 1 – PRELIMINARY MATTERS

Clause 1. Short title

This is a formal clause which provides for the citation of the Act. When passed, the Act may be referred to as the Revenue and Other Legislation Amendment Act 2012.

Clause 2. Commencement

This clause provides for various parts of the Bill commencing at different times.

Subclause (1) provides that Parts 2 and 3 (relating to amendments to the first home owner grant, principal place of residence rebate and first home owner concession) are taken to have commenced on 4 December 2012.

Subclause (2) provides that Part 4 (relating to amendments to motor vehicle fees) commences from 1 January 2013.

Subclause (3) provides that all the other provisions of the Bill are to commence on the date on which the Administrator's assent to the Act is declared.

PART 2 – AMENDMENT OF STAMP DUTY ACT

Clause 3. Act amended

This clause provides that this Part of the Bill amends the Stamp Duty Act.

Clause 4. Section 88 amended

Subclause (1) makes a consequential amendment to section 88, omitting the current definition of “off-the-plan contract” from section 88(1). This amendment is necessary as the existing definition refers to section 13B of the First Home Owner Grant Act, which is being repealed through Part 3 of this Act.
Subclause (2) inserts definitions for “off-the-plan contract” and “first home owner grant” into section 88. The new definition for “first home owner grant” signposts the existing definition as provided in section 3 of the First Home Owner Grant Act.

The inclusion of a definition for “off-the-plan contract” is necessary to replace the current definition in section 13B of the First Home Owner Grant Act which is being repealed by this Act.

Subclauses (3) and (4) make minor amendments to give effect to current drafting style. The existing definitions of “Australian citizen”, “permanent resident”, “residential property” and “home” are now signposted to sections 3 and 4 of the First Home Owner Grant Act.

Subclause (5) amends the definition of “principal place of residence rebate” so that the Principal Place of Residence Rebate is $7000 for a conveyance first executed on or after 4 December 2012. For conveyances first executed before 4 December 2012, the rebate will remain at $3500.

Clause 5. Section 89 amended

Clause 5 inserts new subsection 89(1A) which excludes conveyances first executed on or after 4 December 2012 from being eligible for the first home owner concession.

This amendment is necessary as the first home owner concession scheme will no longer apply from 4 December 2012. All eligible conveyances first executed before this date will still be entitled to the concession.

Clause 6. Section 89A amended

Clause 6 inserts a new eligibility criterion for the Senior, Pensioner, and Carer Concession that the Commissioner of Territory Revenue must be satisfied that the conveyee or conveyees have not been paid, are not entitled to, or will not be entitled to the First Home Owner Grant, in relation to the conveyance or construction of a home on the land.
This new criterion ensures that a situation cannot arise where a conveyee can access both the Senior, Pensioner and Carer Concession and the First Home Owner Grant for the same conveyance.

Clause 7. Section 90 amended

Subclause (1) makes minor consequential amendments to subsections (1)(f), (3) and (4) to ensure consistency with the newly defined “qualifying home” as defined in new section 90(10).

Subclause (2) inserts a new eligibility criterion for the Principal Place of Residence Rebate that the Commissioner must be satisfied that the conveyee or conveyees have not been paid, are not entitled to, or will not be entitled to the First Home Owner Grant, in relation to the conveyance or construction of a home on the land.

This new criterion ensures that a situation cannot arise where a conveyee or conveyees can access both the Principal Place of Residence Rebate and the First Home Owner Grant for the same conveyance.

Subclause (3) inserts a new subsection 90(10) to define the term “qualifying home”. This new definition distinguishes the terms “home” and “new home” for the purposes of the higher Principal Place of Residence Rebate that is being introduced.

Clause 8. Section 90A inserted

New section 90A has been inserted into the Stamp Duty Act to ensure that a conveyee is not eligible for the Senior, Pensioner and Carer Concession and Principal Place of Residence Rebate if they are or later become eligible for the First Home Owner Grant.

Section 90A requires the Commissioner to reassess stamp duty on the relevant conveyance where they become eligible for the First Home Owner Grant, on the basis that the conveyee was not eligible for either the Senior, Pensioner, and Carer Concession or Principal Place of Residence Rebate.
If circumstances arise where stamp duty is reassessed and an applicant is required to repay either the Senior, Pensioner and Carer Concession or Principal Place of Residence Rebate, due to eligibility for the First Home Owner Grant, the Commissioner has the discretion to make a payment of a lower grant, which represents the difference between the standard grant amount and any stamp duty liability that arises from non-entitlement to the Senior, Pensioner and Carer Concession or Principal Place of Residence Rebate.

New section 90A further provides that the Commissioner is able to reassess duty under this section even if the time for reassessment under the Taxation Administration Act has passed.

Clause 9. **Part 10 inserted**

Clause 9 inserts new Part 10 into the *Stamp Duty Act*, and provides for the transitional matters for the *Revenue and Other Legislation Amendment Act 2012* in relation to that Act.

The transitional provisions ensure that the new Principal Place of Residence Rebate does not apply to the following transactions entered into on or after 4 December 2012:

- The conveyance replaces an earlier conveyance, first executed before 4 December 2012, of the same or substantially similar land.

- The conveyees entered into a contract or option, before 4 December 2012, to purchase the same or substantially similar land.

- The conveyor had an option, granted before 4 December 2012, to require the conveyees to purchase the same or substantially similar land.

The transitional provisions however ensure that a conveyee or conveyees who enter into the above transactions are still able to apply for the first home owner concession.

**PART 3 – AMENDMENT OF FIRST HOME OWNER GRANT ACT**
Clause 10. Act amended

The Act being amended by this Part is the *First Home Owner Grant Act*.

Clause 11. Section 3 amended

Clause 11 reduces the maximum value of a home eligible for the First Home Owner Grant from $750 000 to homes valued up to $600 000.

The section 3 definition of "threshold amount" has been replaced with a new definition which defines the "threshold amount" as being:

- $750 000, where the commencement date for the transaction is before 4 December 2012; or
- $600 000, where there commencement date is on or after 4 December 2012.

Clause 12. Section 3A repealed

This clause repeals section 3A which provides for definitions for Part 2, Division 3A of the *First Home Owner Grant Act*. Part 2 Division 3A is repealed by this Act and section 3A no longer has any substantive operation.

Clause 13. Part 2, Division 3A repealed

Clause 13 repeals Part 2, Division 3A, which gives effect to the First Home Owner Boost provisions contained in the *First Home Owner Grant Act*. The First Home Owner Boost period has expired and the time limit in which a person can apply for the First Home Owner Boost has also expired. Accordingly, Division 3A no longer has any substantive operation.

Clause 14. Sections 18 and 18A replaced

This clause replaces existing sections 18 and 18A with new section 18.
Section 18A was inserted into the *First Home Owner Grant Act* in 2009 to give effect to the First Home Owner Boost. As the First Home Owner Boost period has expired and the time limit in which a person can apply for the First Home Owner Boost has also expired, section 18A no longer has any substantive operation.

New section 18 gives effect to the new First Home Owner Grant measures being introduced in the 2012-13 Mini-Budget.

The new First Home Owner Grant is the lesser of the consideration actually paid for the eligible transaction or the amount determined under sections 18(2) or (3).

Subsection 18(2) provides that where the commencement date for an eligible transaction is before 4 December 2012, the current amount of the grant, being $7000, applies.

Subsection 18(3) sets the new amount of the grant, from 4 December 2012 as being $25 000 for new homes and $12 000 for established homes in urban areas. A grant amount of $25 000 is prescribed for all other new and established homes outside of urban areas.

The term “established home in an urban area” is defined by subclause (4) as a home that is not a new home located wholly within the urban area. Eligible transaction is defined by sections 13 and 13AA of the *First Home Owner Grant Act*.

The term “new home” is defined by subclause (5) and incorporates the existing definitions of “new home” and “substantially renovated home” which are currently found in section 13B of *First Home Owner Grant Act*. These terms have been included in new section 18 as a result of the repeal by this Act of section 13B.

The new term “urban area” is defined by subclause (6) as being areas within the Municipalities of Darwin, Palmerston and Litchfield and the Shire of Wagait; within the “prescribed area” for the *Darwin Rates Act*; the Darwin Waterfront Precinct as specified under section 4 of the *Darwin Waterfront Corporation Act* and any other area prescribed by regulation.
Clause 15.  Section 54 inserted

New section 54 is inserted to provide transitional provisions for the application of new section 18 of the First Home Owner Grant Act after 4 December 2012.

The transitional provisions ensure that the increase in the First Home Owner Grant, as well as the reduction in the threshold amount only applies in relation to transactions that genuinely occur on or after 4 December 2012.

PART 4 – AMENDMENT OF MOTOR VEHICLES (FEES AND CHARGES) REGULATIONS

Clause 16.  Regulations amended

The Regulations being amended by this Part are the Motor Vehicles (Fees and Charges) Regulations.

Clause 17.  Schedule 1 amended

Clause 17 replaces the existing Schedule 1, Part 2, Item 2 of the Regulations with a new Schedule that provides for the increase in light motor vehicle registration fees including trailers.

Motor vehicle registration fees are expressed in revenue units. Where the increase in motor vehicle registration fees, as prescribed as a number of revenue unit, would result in a new registration fee that is not a multiple of 1 revenue unit, the new motor vehicle registration fee is rounded up to the nearest multiple of 1 revenue unit.

PART 5 – EXPIRY OF ACT

Clause 18.  Expiry of Act

Clause 18 provides for the expiry of the Revenue and Other Legislation Amendment Act 2012 on the day after it commences.