

EXPLANATORY STATEMENT

Issued by authority of the Minister for Defence Personnel

Defence Force (Home Loans Assistance) Act 1990

Defence Force (Home Loans Assistance) Regulations 2018

The *Defence Force (Home Loans Assistance) Act 1990* (the Act) makes provision for providing for the payment of home loan subsidies in respect of certain members of the Australian Defence Force.

Section 40 of the Act, provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing matters required or permitted by the Act to be prescribed; or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The purpose of the *Defence Force (Home Loans Assistance) Regulations 2018* (the Regulations) is to repeal the *Defence Force (Home Loans Assistance) Regulations 1991* before they sunset on 1 October 2018. This scheme has been closed to new applications and has diminishing numbers. This scheme was superseded by a new home ownership assistance scheme for eligible ADF members on 1 July 2008. Following a ‘fitness for purpose’ review it was decided that the Regulations need to preserve the ‘Use and disclosure of personal information’ as prescribed by section 36A of Act for those current ADF members. The previous specific regulations relating to continuity of service (leave) and compensable disability did not need to be remade as they relate to matters that were historical and any application would consider the time of the event occurring not current applications.

The Department of Veterans Affairs, Defence Legal and the Relocation and Housing Branch in the Department of Defence have been consulted during the remake of the Regulations.

The authorising Act specifies no conditions that need to be fulfilled before the Regulations can be made.

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

The Regulations would commence on the day after it is registered on the Federal Register of Legislation and the details of the Regulations are set out in the Attachment.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Defence Force (Home Loans Assistance) Regulations 2018

This legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The purpose of the *Defence Force (Home Loans Assistance) Regulations 2018* (the Regulations) is to repeal the *Defence Force (Home Loans Assistance) Regulations 1991* before they sunset on 1 October 2018. This scheme has been closed to new applications and has diminishing membership numbers. This scheme was superseded by a new home ownership assistance scheme for eligible ADF members on 1 July 2008. The Regulations preserve the ‘Use and disclosure of personal information’ as prescribed by section 36A of the Act for those current ADF members who are with the previous scheme.

Human rights implications

The Regulations engage Article 17- of the International Covenant on Civil and Political Rights- no one shall be subjected to arbitrary or unlawful interference with privacy.

The Regulation sets out the purpose for which personal information about persons in circumstances specified in subsection 36A (1) of the Act may be used and disclosed by persons specified in subsection 36A(3) of the Act. The use and disclosure must fall within the scope of purposes as set out in the Regulations. The purposes prescribed relate directly to the administration of benefits under the Act and the scheme.

The *Privacy Act 1988* protects personal information from unauthorised use and disclosure. Applicants under the scheme will be advised of the range and use and disclosure to which their information may be put, and their consent sought as part of the application process, the persons whose information is routinely disclosed or used will be informed of the disclosures and uses.

Conclusion

The Regulations are compatible with human rights and to the extent that it may limit human rights, those limitations are reasonable, necessary and proportionate.

Minister for Defence Personnel, the Honourable Darren Chester MP

Details of the Regulations are as follows:

Section 1 – Name

This section provides that the title of the instrument is the *Defence Force (Home Loans Assistance) Regulations 2018*.

Section 2 – Commencement

This section provides for the Regulations to commence on the day after the instrument is registered.

Section 3 – Authority

The Regulations are made under the *Defence Force (Home Loans Assistance) Act 1990*.

Section 4 – Schedules

This section provides that each instrument as set out in the Schedule is amended or repealed as specified.

Section 5 - Definitions

This section provides definitions of words used in the Regulations.

Section 6 – Use and disclosure of personal information-prescribed purposes

This section ensures that the anticipated uses and disclosures of personal information for the purposes of administering the scheme.

Schedule 1- Repeals

Section 1 – The whole of the Instrument

This provision repeals *the Defence Force (Home Loans Assistance) Regulations 1991*.