

EXPLANATORY STATEMENT

Defence Service Homes Insurance Scheme (Statement of Conditions) Variation 2019

EMPOWERING PROVISION

Section 38A of the *Defence Service Homes Act 1918* (the Act).

PURPOSE

The attached legislative instrument (Instrument 2019 No. M27) varies the legislative instrument under the Act known as the Statement of Conditions by revoking the *Defence Service Homes Insurance Scheme (Statement of Conditions) Variation 2016* (F2016L00553)(revoked instrument) and replacing it with a new Statement of Conditions (new Statement of Conditions).

The Australian Government provides domestic building insurance under the Act to eligible veterans and Australian Defence Force personnel through the Defence Service Homes Insurance Scheme (DSHIS). The policy issued under the DSHIS is a comprehensive building insurance policy.

The purpose of the Statement of Conditions under section 38A of the Act is to set out the risks against which insurance is provided, including general exclusions, and other terms and conditions that are to comprise the policy of insurance under the DSHIS. Australian law requires insurers to include the terms and conditions of an insurance product in a document, known as the Product Disclosure Statement (PDS). The Statement of Conditions operates in a similar way to a PDS.

In accordance with the new Statement of Conditions, insurance cover provided under the DSHIS will continue unchanged. The new Statement of Conditions is neutral in terms of its impact on policy holders. Policy holders will not be worse off on the commencement of this instrument.

However, unlike the Statement of Conditions under the revoked instrument, the new Statement of Conditions does not set out customer information of a general nature. This information is provided directly to policy holders.

The new Statement of Conditions will have effect from 1 July 2019.

RETROSPECTIVITY

None.

CONSULTATION

Section 17 of the *Legislation Act 2003* requires a rule-maker to be satisfied that any consultation that is considered appropriate and reasonably practicable to undertake, has been undertaken.

The new Statement of Conditions set out the risks against which insurance is provided, including general exclusions, and other terms and conditions that are to comprise a policy of insurance under the DSHIS. In accordance with the new Statement of Conditions, insurance cover under the DSHIS will be maintained at existing levels. The new Statement of Conditions is neutral in terms of its impact on policy holders.

Consultation in respect of the replacement Statement of Conditions has been carried out within the DSHIS management team. Given no policy holder will be worse off under the new Statement of Conditions, further consultation was not considered necessary or appropriate.

In these circumstances, it is considered that the requirements of section 17 of the *Legislation Act 2003* have been met.

DOCUMENTS INCORPORATED BY REFERENCE

None.

REGULATORY IMPACT

Nil.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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

The attached legislative instrument does not engage a human right. It provides a legislative template for the standard terms and conditions that are to comprise a policy of insurance under the DSHIS and operates in a similar way to a PDS.

As the attached instrument does not engage a human right, it is considered to be 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*.

Mark Cormack
Deputy Secretary Policy and Programs
Delegate for the Minister for Veterans and Defence Personnel
Rule Maker

FURTHER EXPLANATION OF PROVISIONS

Attachment A

FURTHER EXPLANATION OF PROVISIONS

Section 1

This section sets out the name of the instrument - the *Defence Service Homes Insurance Scheme (Statement of Conditions) Variation 2019*.

Section 2

This section provides the instrument commences on 1 July 2019.

Section 3

This section provides the attached instrument is made under section 38A of the *Defence Service Homes Act 1918*.

Section 4

This section provides the *Defence Service Homes Insurance Scheme (Statement of Conditions) Variation 2016* (F2016L00553) is revoked. As a result, the variations to the Statement of Conditions cease to have any effect on 1 July 2019.

Section 5

This section is a savings provision and ensures that any right to a payment under the Statement of Conditions that was in force immediately before the commencement of this instrument continues on and after that commencement. The legal effect of this section is to specifically preserve any such right until the payment is made.

The note to this section provides that subsection 38A(4) of the Act provides that the Minister shall not vary the Statement of Conditions so as to remove the right of a person to receive a payment to which the person had become entitled before the variation.

Section 6

This section provides the Statement of Conditions set out in the Schedule applies for the purposes of Part VI of the *Defence Service Homes Act 1918*. This means the Statement of Conditions set out in the Schedule is in force on and after the commencement of this instrument. The Statement of Conditions is only relevant to Part VI of the *Defence Service Homes Act 1918*.

Schedule - Statement of Conditions

The Schedule contains the Statement of Conditions. The Statement of Conditions sets out the risks against which insurance is provided, including general exclusions, and other terms and conditions that are to comprise a policy of insurance under the DSHIS. The risks are loss or damage to a home; accidental loss or damage; fusion of

electrical motors; owner's or occupiers's legal liability; strata title homes and death of the insured or their family. General exclusions include failing to keep the home or site in good repair and condition; defects in structure, design, work done or materials used on the home or at the site; wear and tear; any war or war like activities and any act of terrorism.