

2008

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

**DEFENCE HOME OWNERSHIP ASSISTANCE SCHEME
(CONSEQUENTIAL AMENDMENTS) BILL 2008**

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Defence Science and Personnel
the Honourable Warren Snowdon MP)

Defence Home Ownership Assistance Scheme (Consequential Amendments) Bill 2008

GENERAL OUTLINE

The Defence Home Ownership Assistance Scheme (Consequential Amendments) Bill 2008 makes consequential amendments to the *Defence Force (Home Loans Assistance) Act 1990* and *Defence Service Homes Act 1918*.

The amendments deal with consequential matters in connection with the new *Defence Home Ownership Assistance Scheme Act 2008*.

The Consequential Bill, together with the rules under the new *Defence Home Ownership Assistance Scheme Act 2008*, will provide for people to transition into the new Defence Home Ownership Assistance Scheme (the new scheme) and close the scheme established under the *Defence Force (Home Loans Assistance) Act 1990* to serving members who have not yet exercised their rights under that scheme. It will also close the scheme to all other persons who have not exercised an entitlement under that scheme as at 30 June 2010. Serving members who are eligible under the *Defence Service Homes Act 1918* may also apply to join and receive benefits under the new scheme.

The measures will ensure that subsidy is payable to an individual only under one scheme and amendments to provide for this will be included in both the existing schemes under the *Defence Force (Home Loans Assistance) Act 1990* and the *Defence Service Homes Act 1918*. The effect of joining the new scheme is that a person cannot return to either of the existing schemes once they have been paid subsidy under the new scheme.

This Bill and explanatory memorandum should be considered in conjunction with the new Act and the explanatory memorandum.

Financial impact statement

The amendments contained in the Bill have no financial impact.

NOTES ON CLAUSES

Clause 1: Short Title

1. This clause provides that the Act may be cited as the *Defence Home Ownership Assistance Scheme (Consequential Amendments) Act 2008*.

Clause 2: Commencement

2. This clause sets out a table outlining the time of commencement of provisions of the Act. Sections 1 to 3 and anything else in the Act except Schedule 1 commences on the day on which the Act receives Royal Assent. Schedule 1 to the Act commences at the same time as section D1 of the *Defence Home Ownership Assistance Scheme Act 2008* (the new scheme).

Clause 3: Schedule(s)

3. This clause provides that each Act specified in a Schedule to the Act is amended or repealed as set out in the applicable items in the Schedule concerned. In addition, any other item in a Schedule to the Act has effect according to its terms.

SCHEDULE 1 - Consequential amendments

Defence Force (Home Loans Assistance) Act 1990 (DFHLA Act)

Item 1 Section 3 (definition of finishing day)

4. This item repeals the definition of 'finishing day' in section 3 of the DFHLA Act, and substitutes a new definition. The new definition for 'finishing day' extends the time for non-serving members until 30 June 2010. The amendment will allow for the Secretary to issue certificates to eligible persons who are not serving members or approve loan increases for subsidised borrowers.

Item 2 At the end of subsection 12(1)

5. This item inserts a new paragraph into subsection 12(1) of the DFHLA Act. Section 12 sets out the criteria for issue of certificates. The new paragraph provides that the person has not already been issued an entitlement certificate on or after the commencement of the new scheme.

Item 3 After section 20

6. This item inserts a new clause 20A (Conditions of payment of subsidy—subsidy under one scheme only). The new clause provides that subsidy is not payable on a loan to a person under the DFHLA Act who receives subsidy under the *Defence Home Ownership Assistance Scheme Act 2008*.

Item 4 After section 36

7. This item inserts a new clause 36A (Disclosure of personal information). The new clause provides that the privacy arrangements to be authorised by the new scheme may apply in relation to applicants, recipients of subsidy certificates, persons who are or have been subsidised borrowers, the partners and dependants of those persons.

8. In the context of these consequential amendments, the expanded privacy arrangements enable the administrators of the new scheme to inform the administrators and loan providers under the old scheme in the event that a subsidy recipient chooses to extinguish their rights under the old scheme in order to take up a new scheme entitlement. In order to assess service credit to be used toward the new scheme, subsidy received under the DFHLA and unused subsidy period is taken into account, and so these amounts may need confirmation for persons seeking subsidy under the new scheme.

9. Subclause 36A(2) provides that this information may be used by, disclosed to and between entities listed in subclause 36A(3) acting on the Commonwealth's behalf in the administration and operation of the schemes, and loan providers under the schemes. Such use and disclosure is taken to be authorised for the purposes of Commonwealth, State and Territory privacy laws.

10. A report on privacy matters relevant to the new scheme and compliance with Commonwealth privacy law has been prepared for the Commonwealth by the Australian Government Solicitor. The report notes that the above arrangement appears only to require the sharing of personal information to the extent necessary for the scheme's proper operation and for the protection of the public revenue. In relation to personal information outside the scope of clause 36A, the loan providers and the authorised Commonwealth contractor for the new scheme are all currently bound by the Information Privacy Principles set out in the Privacy Act 1988 in the conduct of the scheme, either under contract or as a Commonwealth agency.

Item 5 At the end of section 37

11. This item inserts a new paragraph into section 37 of the DFHLA Act. Section 37 provides for the Secretary to delegate all or any of his or her powers and functions under the Act. The new paragraph provides that the Secretary can delegate powers and functions to a delegate of the Secretary under subsection A5 of the *Defence Home Ownership Assistance Scheme Act 2008*.

Defence Service Homes Act 1918 (DSH Act)

Item 6 After section 24

12. This item inserts a new clause 24A (Conditions of payment of subsidy—subsidy under one scheme only). The new clause provides that subsidy is not payable on a loan to a person under the DSH Act who receives or has received subsidy under the *Defence Home Ownership Assistance Scheme Act 2008*.

Item 7 After section 45B

13. This item inserts a new clause 45C (Disclosure of personal information). The new clause provides that the privacy arrangements to be authorised by the new scheme may apply in relation to applicants, recipients of subsidy certificates, persons who are or have been subsidised borrowers, the partners and dependants of those persons.

14. In the context of these consequential amendments, the expanded privacy arrangements enable the administrators of the new scheme to inform the administrators and loan providers under the old scheme in the event that a subsidy recipient chooses to extinguish their rights under the old scheme in order to take up a new scheme entitlement. In order to assess service credit to be used toward the new scheme, subsidy received under the DSH Act and unused subsidy period is taken into account, and so these amounts may need confirmation for persons seeking subsidy under the new scheme.

15. Subclause 45C(2) provides that this information may be used by, disclosed to and between entities listed in subclause 45C(3) acting on the Commonwealth's behalf in the administration and operation of the schemes, and loan providers under the schemes. Such use and disclosure is taken to be authorised for the purposes of Commonwealth, State and Territory privacy laws.

16. A report on privacy matters relevant to the new scheme and compliance with Commonwealth privacy law has been prepared for the Commonwealth by the Australian Government Solicitor. The report notes that the above arrangement appears only to require the sharing of personal information to the extent necessary for the scheme's proper operation and for the protection of the public revenue. In relation to personal information outside the scope of clause 45C, the loan providers and the authorised Commonwealth contractor for the new scheme are all currently bound by the Information Privacy Principles set out in the Privacy Act 1988 in the conduct of the scheme, either under contract or as a Commonwealth agency.