EXPLANATORY STATEMENT

Defence Service Homes Act 1918

VARIATION TO THE STATEMENT OF CONDITIONS

EMPOWERING PROVISION

Subsection 38A(3) of the Defence Service Homes Act 1918 (the Act).

PURPOSE

The attached legislative instrument (Min.12/2012), made by the Minister for Veterans’ Affairs (the Minister), varies the Statement of Conditions under the Act.

The Australian Government provides domestic building insurance under the Act to eligible veterans and ADF personnel delivered through the Defence Service Homes Insurance Scheme.

The Statement of Conditions (or insurance policy) sets out in detail the cover offered under this building insurance policy.

A number of variations have been made to the Statement of Conditions to ensure the product continues to be one of the most comprehensive building insurance policies available.

Essentially the variations make the Policy more comprehensive by providing more detail in relation to situations that may arise under the Policy.

Further details of the variations are set out in Attachment A.

RIGHT TO PAYMENT/RETROSPECTIVITY

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.

Similarly, subsection 12(2) of the Legislative Instruments Act 2003 provides (as paraphrased) that legislative instruments that commence before registration on the Federal Register of Legislative Instruments and that negatively affect citizens are of no effect. The attached legislative instrument is taken to have commenced on 1 July 2011 i.e. before registration.
The instrument does not infringe either of these provisions because it is beneficial in nature. The instrument does not remove any right to a pre-existing payment under an insurance policy and nor does it disadvantage any person or impose liabilities on any person (other than the Commonwealth).

CONSULTATION

Consultation in respect of the attached instrument was not considered necessary because the instrument is beneficial in nature and interested parties could be expected to support it.

DOCUMENTS INCORPORATED BY REFERENCE

Subsection 4(1) of the Legislative Instruments Act 2003 requires Explanatory Statements for legislative instruments to describe any documents incorporated-by-reference into the Instrument and to indicate how the document may be obtained.

No documents are incorporated by reference in the attached instrument.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS


The attached 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 legislative instrument is made by the Minister for Veterans’ Affairs. It revises the terms of the home insurance policy provided to policy holders under the Defence Service Homes Act 1918, the Defence Force (Home Loans Assistance) Act 1990 and the Defence Home Ownership Assistance Scheme Act 2008.

Essentially the instrument spells out in more detail various aspects of the insurance policy thereby reducing the potential for uncertainty. For example, details are provided of the procedure for changing a direct-debit payment arrangement where a premium is paid by instalments. The
instrument also ensures that certain information that could be expected to interest policy holders is included in the insurance policy. In this regard policy holders are informed of the factors used to calculate the premium for the policy e.g. location of home etc.

**Human rights implications**

The attached Legislative Instrument does not engage any of the applicable rights or freedoms. It represents the involvement of Government in an area ancillary to the provision of benefits to service personnel.

**Conclusion**

The Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

Warren Snowdon
Minister for Veterans’ Affairs
Rule Maker
Attachment A

[1] states who is the Rule Maker for the instrument.

[2] provides that the instrument is taken to have commenced on 1 July 2011.

Schedule

1. corrects a typographical error in the reference to the Veterans’ Entitlements Act 1986 and includes the Defence Home Ownership Assistance Scheme Act 2008 as one of the Acts where, if a person qualifies for a benefit under it, the person is eligible for home insurance under the Defence Service Homes Insurance Scheme.

2. explains in more detail what “Total Premium Due” means. In particular the variation makes it clear that the amount, in addition to an amount for risk, includes any taxes and government charges.

   The variation also provides that where the insurance policy is paid for in instalments the premium means the total of the instalments for the full policy period.

3. adds new information about how a premium may be paid and related matters. The main aspects of the information appear below:

   A premium may be paid in one annual payment or by instalments by direct debit from a credit card or from an account with a financial provider (if the Administrator of the Defence Service Homes Insurance Scheme offers the option (Scheme Administrator)).

   If an annual premium is not paid by the starting date of the insurance policy, a financial institution listed on the insurance certificate could be asked to pay it or if the home covered by the insurance policy is not mortgaged or used in any other way to obtain a loan, the insurance policy may be cancelled.

   Where a premium is paid by instalments, the date an instalment is deducted from the total amount of premium owing is the day of the month nominated by the policy holder. This situation applies to a renewed policy unless the policy holder advises otherwise.
Details of instalments are shown on the policy holder’s Certificate of Insurance.

If three consecutive instalments on an insurance policy are unpaid, the policy will be cancelled and the policy holder notified of the cancellation and the date it takes effect.

A claim on a policy could be rejected if it is made more than thirty days after the date when an instalment was due and not paid.

If instalments are paid by direct debit and the policy holder wishes to change or cancel the arrangement then the policy holder needs to advise the Scheme Administrator at least seven days before the next instalment is due.

Where a policy holder seeks to cancel a direct debit arrangement that is used for the payment of monthly instalments but wishes to retain the policy, all remaining unpaid instalments will be deducted under the account/credit card direct debit arrangement.

A premium is calculated by reference to a number of factors which are based on information provided by the applicant for the Policy. These factors are:

- the location of the applicant’s home
- the sum insured
- the applicant’s past claims experience
- the construction of the home
- whether the home is strata title and subject to Body Corporate Insurance.

4. makes it easier for a policy holder to cancel an insurance policy. The policy holder no longer needs to advise the Scheme Administrator (Department of Veterans’ Affairs) in writing that a policy cancellation is sought. The advice may be given over the telephone.

5. clarifies the situation where a policy holder who pays a premium by instalments cancels a policy. In this situation any monthly instalment that is due and unpaid must be paid and the policy holder is taken to have authorised the Scheme Administrator to
deduct any such amount from the direct debit account nominated by the policy holder for instalment-payments.