EXPLANATORY STATEMENT

Select Legislative Instrument No. 148, 2015

Issued by the Authority of the Minister for Veterans' Affairs

Defence Service Homes Act 1918
Defence Service Homes Regulation 2015

The Defence Service Homes Act 1918 (the Act) relates to the provision of assistance to members of the Defence Force and certain other persons to acquire homes, or for other purposes.

Section 51 of the Defence Service Homes Act 1918 (the Act) provides, in part, that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters which are by the Act required or permitted to be prescribed, or which are necessary or convenient to be prescribed for giving effect to the Act.

The Defence Service Homes Regulation 2015 (the Regulation) remade and revised the Defence Service Homes Regulations 1936 (the former regulations) that will be automatically repealed on 1 October 2015 under the “sunsetting provisions” of the Legislative Instruments Act 2003.

The Regulation prescribes an “operational area” for the purposes of paragraph 4(2)(b) of the Act. Paragraph 4(2)(b) provides that a person who served on or after 1 September 1957 and before 28 May 1963 in an area prescribed for the purposes of the paragraph is taken to have served during the warlike operations in or in connection with Malaya after 28 June 1950 and therefore is an “Australian soldier” for the purposes of the Act, which is the first step to being entitled to a subsidised loan under the Act. The area the Regulation prescribes is:

- the area comprising the country known, on and after 1 September 1957 and before 28 May 1963, as the Federation of Malaya;
- the area that, on and after 1 September 1957 and before 28 May 1963, comprised the territory of Singapore, other than Christmas Island.

The Regulation also sets out the purposes for which personal information may be used and disclosed under the Act. The use or disclosure of such information in relation to those purposes would mean such action is authorised by law and therefore not in contravention of the Privacy Act 1998.

The former regulations contained much redundant material that has been removed. Also removed was an evidentiary provision (regulation 77) because it is largely replicated in the Evidence Act 1995 and in any event the Office of Parliamentary Counsel considered it unusual and legally suspect.

Details of the Regulation are set out in the Attachment.
Consultation

Generally “no” because essentially there was no change to existing arrangements. The main difference between the former regulations and the attached Regulation is that redundant material has been removed.

In the course of preparing the Regulation the Office of Parliamentary Counsel (OPC) was consulted in relation to the need to retain the relevant evidentiary provision in the former regulations (regulation 77).

In respect of the Regulation generally, OPC consulted the Office of International Law in the Attorney-General’s Department, and the Privacy Law and Policy Section of the Attorney-General’s Department, which found the Regulation to be satisfactory from international law and privacy viewpoints.

Retrospectivity

None.

Documents Incorporated-by-Reference

No.

Human Rights Statement


The attached legislative instrument does not engage an applicable right or freedom.

Rule-Maker
The Minister for Veterans’ Affairs
Details of the proposed *Defence Service Homes Regulation 2015*

**Section 1 – Name**
This section provides that the name of the Regulation is the *Defence Service Homes Regulation 2015*.

**Section 2 – Commencement**
This section provides for the Regulation to commence on the day after it is registered.

**Section 3 – Authority**
This section provides that the *Defence Service Homes Regulation 2015* is made under the *Defence Service Homes Act 1918*.

**Section 4 - Definitions**
This section defines the term “Act” in the Regulation to mean the *Defence Service Homes Act 1918*.

**Section 5 – Operational areas**
This section prescribes operational areas for the purposes of paragraph 4(2)(b) of the *Defence Service Homes Act 1918*. Those areas are:

- the area comprising the country known, on and after 1 September 1957 and before 28 May 1963, as the Federation of Malaya;
- the area that, on and after 1 September 1957 and before 28 May 1963, comprised the territory of Singapore, other than Christmas Island.

**Section 6 – Use and disclosure of personal information—prescribed purposes**
This section prescribes purposes (prescribed purpose) under subsection 45C(2) of the *Defence Service Homes Act 1918* (the Act). A person mentioned in subsection 45C(3) of the Act may, for a prescribed purpose, use or disclose personal information about a category of person mentioned in subsection 45C(1) of the Act.

**Schedule 1 – Amendments**
This Schedule repeals the *Defence Service Homes Regulations 1936*. 

Explanatory Statement to F2015L01355