

## **EXPLANATORY STATEMENT**

### **Defence Service Homes Insurance Scheme (Statement of Conditions) Variation 2016**

#### **EMPOWERING PROVISION**

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

#### **PURPOSE**

The attached legislative instrument (Instrument 2016 No. Min.12) varies the legislative instrument under the Act known as the Statement of Conditions (Instrument 1996 No.3 as varied).

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 or “the Scheme”).

The Statement of Conditions sets out in detail the insurance cover offered under the Scheme. The Statement of Conditions is, in effect, the insurance policy for the Scheme.

A number of variations have been made to the Statement of Conditions as part of an ongoing review designed to ensure the insurance product continues to be one of the most comprehensive building insurance policies available. Specifically, the variations effected by the attached instrument are intended to clarify certain aspects of the existing policy, improve its readability and update the Duty of Disclosure provisions in line with recent amendments to the *Insurance Contracts Act 1984*.

The variations can be summarised as follows:

#### ***1. Changes to ‘Duty of Disclosure’***

Obligations on the insurer in relation to the scope and reasonableness of questions it may ask of the insured have been strengthened by recent changes to the “duty of disclosure” provisions under the *Insurance Contracts Act 1984*. To ensure the Statement of Conditions aligns with these legislative changes, the “duty of disclosure” text has been tightened to provide that questions asked of the insured will be specific in nature and not general.

The obligation on the insured to act with the “utmost good faith” in its dealings with the insurer remains and this part of the policy has been redrafted to simplify and align with the policy wording of the Scheme’s business partner QBE.

## ***2. Removal of requirement to provide information in writing***

The requirement that lodgement of claims and certain other disclosures by the insured be in writing has been removed. Specifically, the following matters may now be relayed to the insurer via phone call or email:

- Telling the insurer about others you want this insurance to protect
- Making a claim
- Notifying the insurer on the happening of a specified event
- Cancelling an insurance contract within the initial 14-day period.

These changes reflect a move to electronic processing of claims and information retention. DSHIS has not required claims and other information to be provided in writing for some time and these variations update the Statement of Conditions to reflect current DSHIS practice and consumer expectations in this regard. There is no legislative requirement that claims and disclosures be in writing.

## ***3. Changes to clarify meaning***

The opportunity has been taken to clarify certain parts of the Statement of Conditions as part of an on-going review. No policy changes are intended by these variations; they are designed to remove ambiguity and clarify the intended meaning of existing provisions. Variations have been made to the following parts of the Statement of Conditions for this purpose:

- “About this insurance”- reworded to remove the implication that the policy covers death that is unrelated to one of the insured events.
- “The insurance contract” - text under sub-heading “Your premium” has been simplified and a reference added to the section in the policy that provides greater detail on how the premium is calculated.
- “Your sum insured” - the words “Part 1: Home Building” have been added after the words “sum insured” to clarify that references to the “sum insured” are references to the corresponding sum insured shown on the insurance certificate.
- “Fire” - the words “including bushfire” have been added. This has always been covered but not explicitly listed in the policy before. This change appears in Part 1 of the policy, Loss or damage to your home, “The events we insure you for”.

- “Storm, snow or hail” - the words “including cyclone” have been added. Again, this risk has always been covered but not explicitly listed in the policy.
- Part 1 Loss or Damage to your Home, under the subheading “What we pay” a sentence has been added to clarify that the insurer will only be liable to pay the policy holder’s costs of obtaining quotes or reports if the insurer agrees to do so beforehand.
- Part 5 Strata Title Homes, under the subheading “What we insure you for”, the words “*and your mortgagee (if the home is mortgaged)*” have been omitted to avoid the inference that a mortgagee has automatic coverage under the policy.
- Definitions - minor variations have been made to the definitions of “family”, “Premium”, and “sum insured” to add clarity and confirm the existing meaning of these terms.

#### ***4. Providing further detail***

- The URL for the “General Insurance Code of Practice” website has been added to the section headed “General Insurance Code of Practice”.
- A reference to “the law” that governs the insurer’s rights to cancel a policy has been replaced by a reference to the relevant legislation, namely the *Insurance Contracts Act 1984* in the section headed “Cancelling your insurance”.
- The phone number for the insurer has been added to the “Your sum insured” section of the policy.

#### ***5. More strategic placing of information.***

- Some information has been moved to place it under a more appropriate heading. A sentence about amounts due on policy renewal now appears under the section headed “When your insurance starts”.

#### ***6. Changes to internal dispute process***

- The “Disputes” part of the policy has been updated to reflect wording used in the General Insurance Code of Practice and to remove a reference to “Internal Dispute Service” which no longer exists.

## ***7. Updates, formatting, minor and technical corrections***

Variations of this nature made by the attached instrument include:

- updating, or removing, references to page numbers
- correcting minor grammatical errors
- minor formatting changes
- removal of obsolete references
- heading updates
- simplifying the wording of provisions to improve readability
- adding numbering to the “Policy Wording” provisions.

## **RIGHT TO PAYMENT**

Subsection 38A(4) of the Act provides that the Minister (the Minister administering the Act) 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.

The attached instrument does not expressly remove any right to a pre-existing payment under an insurance policy i.e. it is not the intention of the instrument to remove such a right. Further, the instrument specifically preserves any such right until the payment is made.

## **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 variations made by the attached instrument have the purpose of clarifying certain aspects of the Statement of Conditions, improving its readability and updating specific provisions in line with recent changes to the “Duty of Disclosure” provisions in the *Insurance Contracts Act 1984*. The variations are beneficial or neutral in terms of their impact on policy holders. The majority of the changes are minor and technical in nature.

Consultation in respect of the variations has been carried out within the DSHIS management team. Given the nature of the variations, 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**

No documents are incorporated by reference in the attached instrument.

## **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 varies the “legislative template” for the standard terms and conditions that are to comprise a policy of insurance under the Defence Service Homes Insurance Scheme.

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*.

### *Conclusion*

The attached legislative instrument does not engage a human right and is therefore compatible with human rights.

Craig Orme, Acting Chief Operating Officer, Department of Veterans’ Affairs  
Delegate of the Minister for Veterans’ Affairs

Rule Maker

## **FURTHER EXPLANATION OF PROVISIONS**

Attachment A

## Attachment A

### Section 1

This section sets out the name of the instrument - the *Defence Service Homes Insurance Scheme (Statement of Conditions) Variation 2016*.

### Section 2

This section provides that the instrument commences on 1 June 2016.

### Section 3

This section informs the reader that the attached instrument is made under the *Defence Service Homes Act 1918*.

### Section 4

This definition section sets out the full title of the legislative instrument that is being varied – namely, the Statement of Conditions (Instrument 1996 No.3 as varied) made under the *Defence Service Home Act 1918*.

### Section 5

This section is a savings provision and ensures that any right to a payment under the Principal Instrument is not diminished by any variation made to the Principal Instrument by the attached instrument.

### Section 6

This section provides that the Statement of Conditions is further varied as set out in the Schedule.

## **Schedule - Variations to the Statement of Conditions (Instrument No.3 of 1996) as varied**

### Item 1

This item varies the Statement of Conditions by replacing the text, after the title, with the text set out in the Schedule to the instrument.

The following describes the changes made by the replacement text with reference to the current Statement of Conditions (Instrument No.3 of 1996, as varied):

### **CUSTOMER INFORMATION**

#### 1. About this insurance

The words “*(that is a direct result of a physical injury caused by one of the events defined in Part 6)*” have been added after “*and death*”. This removes the misleading implication that the policy covers death that is unrelated to one of the insured events. This change is intended to clarify the existing policy.

#### 2. General Insurance Code of Practice

A reference to the URL for the “General Insurance Code of Practice” website has been added. The inclusion of the website link will assist policy holders by providing

easy access to further information in the Code about standards of good practice, services and dispute resolution guidelines.

### 3. About your policy

The reference to ‘your local state office’ has been omitted and replaced with ‘us’. DSHIS now operates nationally through two offices and either office can handle all enquiries.

### 5. Defined words

The heading to this section was previously styled “You” and “us”. The change is intended to simplify.

### 7. Your Premium

The first sentence has been reworded to include a reference to the section in the policy that provides detail on how the premium is calculated.

Text has been placed under a more appropriate heading. The sentence *“If you are renewing your policy, the amount due also includes money you still owe us, or credits we owe you. Remember, if you do not pay us, you have no insurance.”* now appears at the end of the subheading “When your insurance starts”.

Under the subheading “14 day money back guarantee”, text has been revised to remove the requirement that a cancellation request be in writing and the policy and certificate be returned. Now, the client need only “tell” the insurer that they wish to cancel the contract. The ways to do this (via phone call or email) are set out in other parts of the policy.

### 8. Others you want this insurance to protect

The first sentence has been redrafted for clarity.

The words “in writing” have been removed. Now, the client need only “tell” the insurer by one of the means outlined in the policy (namely, phone call or email).

### 9. Your sum insured

The words “for Part 1: Home Building” have been inserted into the text after the words “sum insured” in 3 instances. This change clarifies that references to “sum insured” in this part of the policy are references to the sum insured shown on the certificate as the sum insured for “Home Building”. The change is intended to avoid confusion with other “sum insured” amounts shown on the certificate.

A sentence has been revised into “plainer language”.

The phone number for the insurer has been added to the end of the sentence in the second paragraph.

#### 10. The protection we offer

A minor drafting change has been made to the last sentence.

#### 11. Claims

A sentence has been redrafted to improve readability.

The dot point “*complete our claim form, if we ask for one, and take or mail it to your local state office (You will find the address on the back of this policy)*” has been omitted. Now, claims can be made via phone call or email rather than in writing.

#### 12. Your excess

Text under has been reordered and revised for clarity.

The words ‘The excess is the same for every policy’ have been omitted to remove the ambiguity in this sentence.

These changes do not alter the treatment of excesses under the policy and do not impact on policy holders’ entitlements.

#### 13. When we may refuse a claim

The words “*in writing*” have been removed from the first sentence.

The obligations on the client to notify the insurer on the happening of one of the specified events can now be met by the client informing the insurer via phone call or email.

A formatting change has been made to other parts of that provision.

#### 14. Cancelling your insurance

Duplicated information that appears under other sections of the policy has been omitted.

A reference to “the law” that governs the insurer’s rights to cancel a policy has been replaced by a reference to the *Insurance Contracts Act 1984*.

The words “return all the premium” have been replaced with “return the entire premium”.

#### 15. Duty of disclosure

The wording of the duty of disclosure provision has been revised to provide that questions asked of the insured will be specific in nature and not general.

Other text under this heading has been rewritten in plainer English. No change of meaning is intended.

#### 16. Disputes

This part of the policy has been updated to better reflect processes outlined in the General Insurance Code of Practice and to remove the reference to “Internal Dispute Service” which no longer exists.



## **POLICY WORDING**

### **PART 1 LOSS OR DAMAGE TO YOUR HOME**

#### 1.1 The events we insure you for

This section has been reworded to improve readability.

#### 1.Fire

The words “including bushfire” have been added. This has always been covered but not explicitly listed in the policy.

#### 6. Storm, snow or hail

The words “including cyclone” have been added. This has always been covered but not explicitly listed in the policy.

#### 8. Act intended to cause loss or damage

The words “that causes the loss or damage” have been changed to “that is intended to cause the loss or damage.”

#### 1.2 What we pay

The words “it would be inappropriate” have been changed to “it would not be appropriate”.

#### B. Additional expenses we pay for

A reference to page numbers has been removed and a minor formatting update made.

#### 1.3 Limits on what we pay

A minor revision has been made to add clarity. No policy change is intended.

### **PART 3 FUSION OF ELECTRICAL MOTORS**

In the introduction, the words “for Part 1: Home Building” have been added after “sum insured”. This is consistent with changes made elsewhere and clarifies that references to sum insured in this section are references to the sum insured listed under Part 1: Home Building on the insurance certificate. No policy change is intended.

#### 3.1 What we insure you for

The words ‘domestic electrical’ have been inserted before “motor” for consistency with other parts of the policy. A similar change has been made in section 3.3 (What we pay) and 3.4 (Limits on what we pay).

#### 3.3 What we pay

A sentence has been added to clarify the insurer’s liability for the policy holder’s costs of obtaining quotes or reports.

### **PART 4 OWNER’S OR OCCUPIER’S LEGAL LIABILITY**

#### 4.2 What we do not insure you for

Repeated words have been omitted from the beginning of the dot points.

#### 4.4 Limits on what we pay

The words “sum insured for Part 4” have been added. This is to clarify that references to sum insured in this section are references to the sum insured for Owner’s or Occupier’s Legal Liability shown on the insurance certificate.

### **PART 5 STRATA TITLE HOMES**

#### 5.1 What we insure you for

The words “*and your mortgagee (if the home is mortgaged)*” have been omitted. A mortgagee is only covered if the policy holder has notified the insurer of this interest under the “Others you want this insurance to protect” part of the policy. This variation removes a misleading inference that a mortgagee has automatic coverage under the policy.

Other sections in this part have been reordered to mirror the sequence in which they appear in other parts of the policy.

### **PART 8 DEFINITIONS**

The definition of “**family**” has been amended to add the word “partner” in the first dot point after “spouse, de facto spouse”. The change is intended to confirm existing policy whereby a same sex partner is included within the definition of “family”.

The definition of “**premium**” has been amended to add the word “taxes”. The definition now reads “premium” means the amount you must pay for the insurance we provide in this policy, including any taxes and government charges.” The change does not effect a change of policy but is intended to ensure consistency with references to “taxes and government charges” in other parts of the policy.

The definition of “**sum insured**” has been amended for consistency with changes made elsewhere in the Statement of Conditions. The definition now reads “sum insured means for each Part of the policy the total amount you have insured your property for under that Part of the policy. The certificate shows the amount of the sum insured for each Part of the policy.”

### **CLAIMS EXAMPLES**

#### Example 2 – Accidental Damage

A typographical error has been corrected.

#### Example 6 – Death of you or your family

A change has been made for grammatical correctness.