



## Defence Home Ownership Assistance Scheme (Consequential Amendments) Bill 2008

Paula Pyburne  
Law and Bills Digest Section

### Contents

Purpose. . . . .	2
Background. . . . .	2
The current scheme . . . . .	2
Review of the Defence HomeOwner Scheme . . . . .	3
Financial implications . . . . .	4
Main provisions. . . . .	4
Items 1-5 amend the Home Loans Assistance Act. . . . .	4
Items 6 and 7 amend the Defence Service Homes Act. . . . .	5

## Defence Home Ownership Assistance Scheme (Consequential Amendments) Bill 2008

**Date introduced:** 28 May 2008

**House:** House of Representatives

**Portfolio:** Defence

**Commencement:** Sections 1 - 3 on the day of the Royal Assent; Schedule 1 at the same time as section 3 of the *Defence Home Ownership Assistance Scheme Act 2008* commences.

**Links:** The [relevant links](#) to the Bill, Explanatory Memorandum and second reading speech can be accessed via BillsNet, which is at <http://www.aph.gov.au/bills/>. When Bills have been passed they can be found at ComLaw, which is at <http://www.comlaw.gov.au/>.

### Purpose

The purpose of the Bill is to make consequential amendments to the *Defence Force (Home Loans Assistance) Act 1990* (the Home Loans Assistance Act) and the *Defence Service Homes Act 1918* (the Defence Service Homes Act) to provide for the transition into the new Defence Home Ownership Assistance Scheme and close the existing scheme for serving members who have not yet exercised their rights under that scheme.

### Background

The current scheme

The [Bills Digest](#) for the Defence Force (Home Loans Assistance) Amendment Bill 2007 provides the following information about the current Defence HomeOwner Scheme (DHOS).

The DHOS was introduced in 1991 to assist eligible members and ex-members of the Australian Defence Force to purchase their own home by providing a subsidy on the interest of a home loan borrowed from the approved lender, the National Australia Bank.

The scheme is administered in accordance with the *Defence Force (Home Loans Assistance) Act 1990*. The Defence Housing Authority administers the scheme on behalf of the Department of Defence.

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Under the current scheme, ADF personnel must serve a set period ('basic service period') before qualifying for the scheme. The basic service period is:

- regular service personnel who are still serving - five years of continuous effective full-time service or
- regular service personnel with less than 15 years of effective full-time service, and have been discharged with a compensable disability - basic service period is waived or
- active and emergency reserve personnel still serving after 8 November 1996 - eight years of continuous efficient service (where the annual statutory training obligation has been met each financial year)

However, regular service personnel with warlike (Somalia, Cambodia, East Timor, Afghanistan and Iraq) or operational service need not serve the basic service period in order to qualify. Warlike service is the period of service in an operational area defined as warlike by the Minister for Defence.

Normally, eligible ADF members are entitled to one year of subsidy for each completed year of service after completing their respective basic service period, up to a maximum of 20 years of subsidy. Members with warlike service are eligible for an extended subsidy period.

The subsidy is equal to 40% of the average monthly *interest* on the loan, calculated on a 25 year loan period. The maximum loan amount eligible for the subsidy is \$80,000 per ADF member (a married or defacto couple who were both eligible ADF members could get \$160,000).

## Review of the Defence HomeOwner Scheme

In May 2006 a [review](#) of the scheme, which was due to end on 31 December 2006, was announced. The *Defence Force (Home Loans Assistance) Amendment Act 2006* extended the life of the scheme for a further year so that the review could be carried out.

In the 2007/08 Budget, the then Minister for Defence, the Hon. Dr Brendan Nelson, announced the Government's response to the Review. The *Defence Force (Home Loans Assistance) Amendment Act 2007* provided for a further extension to the DHOS to 30 July 2008 to allow time for a new Scheme, announced in the 2007 Budget, to be fully developed and implemented.

However, relevant legislation had not been introduced when Parliament was prorogued on 15 October 2007.

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## Financial implications

The amendments contained in the Bill have no financial impact.<sup>1</sup>

## Main provisions

Items 1-5 amend the Home Loans Assistance Act.

According to existing section 3 of the Home Loans Assistance Act the term ‘finishing day’ is defined as 30 June 2008. **Item 1** repeals the existing definition of ‘**finishing day**’ and inserts a new definition. The effect of the proposed new definition is that the existing home loans assistance scheme will be closed off for all eligible persons who are members of the Defence Force on 30 June 2008. However the proposed new definition will extend the time for non-serving members until 30 June 2010.

Existing subsection 12(1) sets out the circumstances in which the Secretary must not issue an entitlement certificate to a person. **Item 2** inserts **proposed paragraph 12(1)(g)** so that an entitlement certificate cannot be issued to a person on or after 1 July 2008.

**Item 3** inserts **proposed section 20A** which provides that a subsidy is payable under **either** the Home Loans Assistance Act **or** the proposed Defence Home Ownership Assistance Scheme Act 2008 (the proposed 2008 Act), but not both.

**Item 4** inserts **proposed section 36A** in relation to the use and disclosure of personal information into the existing Home Loans Assistance Act. The section applies to personal information about an applicant or recipient of an entitlement certificate, a person who is or has been a subsidised borrower, and their families: **proposed subsection 36A(1)**.

Under **proposed subsections 36A(2) and (3)** the following people may use or disclose personal information to each other:

- the Secretary
- a delegate of the Secretary under section 37 of the Home Loans Assistance Act, the Defence Service Homes Act or the proposed 2008 Act
- the Bank, if the Bank has received an application for a subsidised loan or has made a subsidised loan to the person
- the loan provider, if the loan provider has received an application for a subsidised loan or has made a subsidised loan to the person under the proposed 2008 Act and

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1. Explanatory Memorandum, p. 1.

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- a credit provider, if the credit provider has received an application for a subsidised advance or has made a subsidised advance to the person under the Defence Service Homes Act.

According to the Explanatory Memorandum these 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.<sup>2</sup>

Under existing section 37 the Secretary may delegate their powers and functions under the Home Loans Assistance Act to an officer of the Department, a member of the Defence Force, or member of staff of Defence Housing Australia. **Item 5** inserts **proposed paragraph 37(d)** to allow the Secretary to also delegate their powers under subsection 81(2) of the proposed 2008 Act.<sup>3</sup>

Items 6 and 7 amend the Defence Service Homes Act.

**Item 6** inserts **proposed section 24A** into the existing Defence Service Homes Act. The section applies so that subsidy is not payable on a loan to a person under the Defence Service Homes Act if the person has received a subsidy under the proposed 2008 Act. In that respect it mirrors the terms of **item 3** that a person can receive a subsidy under one scheme or the other, but not both.

**Item 7** inserts **proposed section 45C** about the use and disclosure of personal information into the existing Defence Service Homes Act. It is in the same terms as **proposed section 36A** in that it contains expanded privacy arrangements which 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.

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2. Explanatory Memorandum, paragraph 8.
  3. **Proposed section 81(2)** provides for the Secretary to delegate their powers to an authorised Commonwealth contractor.

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