



Defence Legislation Amendment (Miscellaneous Measures) Act 2020

No. 45, 2020

**An Act to amend the law relating to defence, and
for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

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Defence Legislation Amendment (Miscellaneous Measures) Act 2020

No. 45, 2020

An Act to amend the law relating to defence, and for related purposes

[Assented to 25 May 2020]

The Parliament of Australia enacts:

1 Short title

This Act is the *Defence Legislation Amendment (Miscellaneous Measures) Act 2020*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day after this Act receives the Royal Assent.	26 May 2020
2. Schedule 1	The 28th day after this Act receives the Royal Assent.	22 June 2020
3. Schedule 2	The day after this Act receives the Royal Assent.	26 May 2020

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Defence Home Ownership Assistance Scheme

Part 1—Amendments

Defence Home Ownership Assistance Scheme Act 2008

1 Subsections 17(2) and (3) and 18(2)

Omit “2 years” (wherever occurring), substitute “5 years”.

2 Subsection 47(1) (cell at table item 3, column headed “If the person is eligible at the time ...”)

Repeal the cell, substitute:

As a rejoining
incapacitated member
(see section 10), or a
rejoining member (see
section 11)

3 Subsection 47(1) (table item 4)

Repeal the item.

4 Subsection 47(1) (table item 6, column headed “If the person is eligible at the time ...”)

Omit “items 1 to 5”, substitute “items 1, 2, 3 or 5”.

Part 2—Application and transitional provisions

5 Definitions

In this Part:

commencement means the day this item commences.

new law means the *Defence Home Ownership Assistance Scheme Act 2008*, as amended by Part 1 of this Schedule.

old law means the *Defence Home Ownership Assistance Scheme Act 2008*, as in force immediately before the commencement of this item.

6 Application provision—application for subsidy certificate

Subject to item 7, sections 17 and 18 of the new law apply in relation to an application for a subsidy certificate that:

- (a) is made on or after commencement; or
- (b) was pending immediately before commencement.

7 Transitional provision—application for subsidy certificate

- (1) This item applies if:
 - (a) before commencement, the Secretary refused to give a subsidy certificate to an applicant under subsection 16(3) of the old law only because the application for the subsidy certificate (the **old application**) was not made within the 2-year period mentioned in paragraph 17(2)(a) or subsection 17(3) of the old law; and
 - (b) on or after commencement, the applicant makes an application (the **new application**) for a subsidy certificate under the new law.
- (2) In deciding the new application, the Secretary must disregard the old application for the purpose of being satisfied of the matter mentioned in paragraph 17(1)(c) of the new law.

8 Application provision—accrued subsidy period

Subsection 47(1) of the new law applies in relation to the calculation of a person's accrued subsidy period at a time that occurs on or after commencement if:

- (a) on or after commencement, the person is given a subsidy certificate; or
- (b) immediately before commencement, the person holds a subsidy certificate that is in force; or
- (c) both of the following apply:
 - (i) subsidy becomes payable to the person under the old law before commencement;
 - (ii) immediately before commencement, subsidy had not stopped being payable to the person under the old law.

Schedule 2—Australian Defence Force Superannuation

Australian Defence Force Superannuation Act 2015

1 Section 3

Omit:

The Department must pay contributions to ADF Super for the benefit of certain ADF Super members.

substitute:

The Department must pay contributions to ADF Super for the benefit of certain ADF Super members. Contributions may also be made by employers of ADF Super members who are former long-term ADF members, and by ADF Super members who are self-employed former long-term ADF members, in accordance with the Trust Deed.

2 Section 4

Insert:

employer has the same meaning as in the SIS Act.

former long-term ADF member: a person is a *former long-term ADF member* if:

- (a) for a continuous period of at least 12 months, the person was any of the following:
 - (i) a member of the Permanent Forces;
 - (ii) a continuous full-time Reservist; and
- (b) at a particular time (whether before, on or after the commencement of this definition), the person ceased to be any of the following:
 - (i) a member of the Permanent Forces;
 - (ii) a continuous full-time Reservist; and
- (c) at that time, the person was an ADF Super member; and

- (d) at all times since that time, the person:
 - (i) has continued to be an ADF Super member; and
 - (ii) has not been either a member of the Permanent Forces or a continuous full-time Reservist.

3 At the end of section 16

Add:

- (3) This section does not prevent contributions from being made by employers of ADF Super members who are former long-term ADF members, or by ADF Super members who are self-employed former long-term ADF members, in accordance with the Trust Deed.

4 Before subsection 24(1)

Insert:

- (1A) This section applies in relation to an ADF Super member who is:
 - (a) a member of the Permanent Forces; or
 - (b) a continuous full-time Reservist.

5 After paragraph 26(c)

Insert:

- (ca) an employer of a former long-term ADF member who, in accordance with the Trust Deed, makes contributions to the ADF Super Fund for the benefit of the former long-term ADF member;

Superannuation Industry (Supervision) Act 1993

6 Paragraph 68AAA(6)(b)

Repeal the paragraph, substitute:

- (b) an ADF Super member (within the meaning of the *Australian Defence Force Superannuation Act 2015*) who is:
 - (i) a member of the Permanent Forces (within the meaning of that Act); or
 - (ii) a continuous full-time Reservist (within the meaning of that Act); or

7 Paragraph 68AAA(6)(c)

After “ADF Super member”, insert “covered by paragraph (b) of this subsection”.

8 Paragraph 68AAB(4)(b)

Repeal the paragraph, substitute:

- (b) an ADF Super member (within the meaning of the *Australian Defence Force Superannuation Act 2015*) who is:
 - (i) a member of the Permanent Forces (within the meaning of that Act); or
 - (ii) a continuous full-time Reservist (within the meaning of that Act); or

9 Paragraph 68AAB(4)(c)

After “ADF Super member”, insert “covered by paragraph (b) of this subsection”.

10 Paragraph 68AAC(4)(b)

Repeal the paragraph, substitute:

- (b) an ADF Super member (within the meaning of the *Australian Defence Force Superannuation Act 2015*) who is:
 - (i) a member of the Permanent Forces (within the meaning of that Act); or
 - (ii) a continuous full-time Reservist (within the meaning of that Act); or

11 Paragraph 68AAC(4)(c)

After “ADF Super member”, insert “covered by paragraph (b) of this subsection”.

12 Paragraph 68AA(9)(b)

Repeal the paragraph, substitute:

- (b) an ADF Super member (within the meaning of the *Australian Defence Force Superannuation Act 2015*) who is:
 - (i) a member of the Permanent Forces (within the meaning of that Act); or
 - (ii) a continuous full-time Reservist (within the meaning of that Act); or

13 Paragraph 68AA(9)(c)

After “ADF Super member”, insert “covered by paragraph (b) of this subsection”.

*[Minister’s second reading speech made in—
House of Representatives on 13 February 2020
Senate on 14 May 2020]*

(1/20)
