

1991

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

DEFENCE FORCE (HOME LOANS ASSISTANCE) AMENDMENT BILL 1991

EXPLANATORY MEMORANDUM

(Circulated by the authority of the Minister for Defence,  
Senator the Hon. Robert Ray)



Defence Force (Home Loans Assistance) Amendment Bill 1991

OUTLINE

The Bill makes various adjustments to the new Defence Home Loans Assistance Scheme to benefit members of the Defence Force who have been on operational service, particularly in the area of the recent Gulf conflict.

The amendments:

- a. waive the 6 year basic service period (which has to be served before eligibility commences) for members who transfer from the Defence Service Homes Scheme and would have had a corresponding waiver under that Scheme because they have had operational service;
- b. provide a minimum subsidy period of 16 years for members with service in the Middle-East operational area;
- c. include Iraq and Kuwait in the Middle-East operational area and set a cut-off date of 9 June 1991 for operational service in that area; and
- d. ensure that benefits available to persons with operational service (including service in the Middle-East operational area) flow on to their widows and widowers.

**FINANCIAL IMPACT**

Waiving the 6 year basic service period for members with operational service who elect to revoke their entitlement under the Defence Service Homes Scheme does not result in additional cost to the Government, as a corresponding benefit existed under that Scheme.

Precise costing of providing the 16 year subsidy to members with Gulf service is not possible because each year of service offsets one year of subsidy. An approximation of the maximum additional cost to Defence over some 20 years is \$9.85 million, comprising \$6.70 million in subsidy and \$3.15 million in Fringe Benefits Tax.

Assuming a 13% interest rate, average resignation rates and an annual take-up rate of 20% of those eligible, the cost over the next 5 financial years would be:

1991/2	\$155,000
1992/3	\$319,000
1993/4	\$491,000
1994/5	\$681,000
1995/6	\$881,000

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NOTES ON CLAUSES

Clause 1 - Short title

1. Formal.

Clause 2 - Commencement

2. Apart from paragraph 4(a), commencement is on Royal Assent.
3. Paragraph 4(a), which adds Kuwait and Iraq to the definition of the Middle-East operational area, commences on 21 January 1991 because that is the date of effect of the existing definition. However, members could not be allotted for duty in Kuwait or Iraq before those countries were included in the area of operations on 23 February 1991 (the day before the ground war commenced).

Clause 3 - Principal Act

4. Formal.

Clause 4 - Definitions

5. Paragraph (a) inserts Kuwait and Iraq in the definition of Middle-East operational area. They were not included in the original definition because, until the ground war started, they were not part of the area of operations for the Australian Defence Force.
6. Paragraph (b) replaces the definition of "operational service member" with a reference to an expanded definition in a new section 3A.

Clause 5 - Operational service member

7. This clause inserts a new section 3A to define "operational service member".

8. Subsections 3A(1) and (2) repeat in substance the current definition, which covers service in the Middle-East operational area. The definition is completed by addition of a cut-off date, 9 June 1991. Members whose allotted duty commences by that date will be covered.

9. Subsection (3) is a new element of the definition, to cover persons who have transferred from the Defence Service Homes Scheme and who had a period of qualifying service waived under that Scheme because they had operational service prior to the Middle-East conflict (e.g. in Vietnam and Namibia).

Clause 6 - When do former members stop being eligible members?

10. Section 4 of the Principal Act provides that persons who have been out of the Defence Force for more than 2 years cease to be eligible persons for the purposes of the Act. The amendment adds a new subsection to exclude from the effect of this provision persons who have been operational service members through duty in the Middle-East operational area. These persons will be able to apply for their benefit at any time.

Clause 7 - Application for certificate

11. Section 10 of the Principal Act sets out conditions for applications for entitlement certificates. Subsection (3) requires widows or widowers of eligible persons to apply within 2 years of the death or separation from the Defence Force of those persons. The amendment adds a new subsection to exclude from the effect of this provision widows or widowers of persons who had been operational service members through duty in the Middle-East operational area. This amendment ensures that affected widows and widowers do not lose benefits that would have been available to their deceased spouses.

Clause 8 - Criteria for issue of certificate

12. Section 12 of the Principal Act requires certain conditions to be met before entitlement certificates are issued. Paragraph (1)(d) requires operational service members to complete 6 months effective full-time service before a certificate can be issued. The amendment limits the effect of this provision to operational service members other than those with duty in the Middle-East operational area. For the latter, there will be no requirement for completed service before a certificate is issued.

Clause 9 - Application for approval in relation to loan increase

13. Section 14 of the Principal Act provides for applications from subsidised borrowers who have taken out a loan of less than \$40,000 (the maximum that attracts subsidy) and who wish to obtain subsidy for a larger loan. Subsection 14(3) requires persons leaving the Defence Force to apply within 2 years, and subsection 14(4) requires widows or widowers of eligible persons to apply within 2 years of the death or separation from the Defence Force of those persons.

14. This clause ensures that the 2 year time limit for applications does not apply to persons who have been operational service members through duty in the Middle-East operational area, or to the widows or widowers of those persons.

Clause 10 - Subsidy period - eligible persons

15. Section 23 of the Principal Act provides for the periods during which subsidy is payable on loans to eligible persons. The subsidy period equals a person's entitlement period, less any used subsidy period.

16. Subsection 23(3) defines "entitlement period". The general rule, in paragraph (3)(a), is for the entitlement period to be the number of years of effective full-time service after completion of the basic service period, which is normally 6 years. A maximum entitlement period of 20 years is set.

17. The existing paragraph 23(3)(b), which applies to operational service members (currently limited to those allotted for duty in the Middle-East operational area), qualifies the general rule by waiving the requirement for a basic service period. This clause omits paragraph (3)(b) and substitutes new paragraphs (b) and (ba).

18. New paragraph 23(3)(b) provides a minimum entitlement period of 16 years for operational service members allotted for duty in the Middle-East operational area. Members who have more than 16 years of effective full-time service have an entitlement period equal to the number of years served, up to a maximum of 20 years.

19. New paragraph 23(3)(ba), which applies to operational service members with service in an operational area prior to the Gulf conflict, waives the requirement for a basic service period. That is, the entitlement period equals the number of years of effective full-time service, up to a maximum of 20 years.

20. This clause also qualifies the definition of "rejoining member", for the purpose of section 23 only, to ensure that operational service members with service in the Middle-East operational area do not have their entitlement period reduced through being treated as rejoining members.

#### Clause 11 - Subsidy period - widows and widowers

21. Section 24 of the Principal Act provides for widows or widowers of deceased eligible persons to be entitled to the same subsidy period that would have applied to those persons.

22. Subsections 24(3) and (4) are intended to qualify the basic provision in section 24 by providing a benefit for certain widows and widowers. Where specified compensation is payable in respect of a member's death and the subsidy period would be less than 10 years after deducting the 6 year basic service period, the subsidy period for a widow or widower equals the number of years of effective full-time service (i.e. the basic service period is waived).

23. Subsections (3) and (4) could not operate for the benefit of widows or widowers of operational service members because the basic service period does not apply to those members. In some cases, particularly in light of the amendments contained in clause 10, those subsections could operate to the detriment of widows or widowers. Clause 11 therefore excludes widows and widowers of operational service members from the operation of subsections 24 (3) and (4).

