

# Defence Forces Retirement and Death Benefits Scheme



Australian Government  
Defence Force Retirement &  
Death Benefits Scheme

D280—February 2009

## Marital or couple relationship

### Section 6A

- (1) For the purposes of this Act, a person had a **marital or couple relationship** with another person at a particular time if the person ordinarily lived with that other person as that other person's husband or wife or partner on a permanent and *bona fide* domestic basis at that time.
- (2) For the purpose of subsection (1), a person is to be regarded as ordinarily living with another person as that other person's husband or wife or partner on a permanent and *bona fide* domestic basis at a particular time only if:
  - (a) the person had been living with that other person as that other person's husband or wife or partner for a continuous period of at least 3 years up to that time; or
  - (b) the person had been living with that other person as that other person's husband or wife or partner for a continuous period of less than 3 years up to that time and the Authority, having regard to any relevant evidence, is of the opinion that the person ordinarily lived with that other person as that other person's husband or wife or partner on a permanent and *bona fide* domestic basis at that time; whether or not the person was legally married to that other person.
- (3) For the purposes of this Act, a marital or couple relationship is taken to have begun at the beginning of the continuous period mentioned in paragraph (2)(a) or (b).
- (4) For the purpose of subsection (2), relevant evidence includes, but is not limited to, evidence establishing any of the following:
  - (a) the person was wholly or substantially dependent on that other person at the time;
  - (b) the persons were legally married to each other at the time;
  - (ba) the persons' relationship was registered under a law of a State or Territory prescribed for the purposes of section 22B of the *Acts Interpretation Act 1901*, as a kind of relationship prescribed for the purposes of that section;
  - (c) the persons had a child who was:
    - (i) born of the relationship between the persons; or
    - (ii) adopted by the persons during the period of the relationship; or
    - (iii) a child of both of the persons for the purposes of the *Family Law Act 1975*;
  - (d) the persons jointly owned a home which was their usual residence.
- (5) For the purposes of this section, a person is taken to be living with another person if the Authority is satisfied that the person would have been living with that other person except for a period of:
  - (a) temporary absence; or
  - (b) absence because of special circumstances (for example, absence because of the person's illness or infirmity or a posting of the person).

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## *Spouse who survives a deceased person*

### **Section 6B.**

(1) In this section:

**deceased person** means a person who was, at the time of his or her death, a contributing member, a recipient member or a person in respect of whom deferred benefits were applicable.

(2) For the purposes of this Act, a person is a spouse who survives a deceased person if the person had a marital or couple relationship with the deceased person at the time of the death of the deceased person.

(3) In spite of subsection (2), a person is taken to be a spouse who survives a deceased person if:

- (a) the person had previously had a marital or couple relationship with the deceased person; and
- (b) the person did not, at the time of the death, have a marital or couple relationship with the deceased person but was legally married to the deceased person; and
- (d) in the Authority's opinion, the person was wholly or substantially dependent upon the deceased person at the time of the death.

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