



PFAS CLASS ACTION

Notice to Register in the Class Action or Opt Out

WHY IS THIS IMPORTANT?

This is an important notice approved by the Federal Court of Australia because you are likely to be a class member in the PFAS Class Action in the Darwin (NT) area.

As explained below, you may do one of three things in response to this notice:

- 1 **Opt out** of the class action by 30 September 2020 4:00pm (Sydney time) and lose a right to get any money compensation out of the class action (but keep your right to try to get some money compensation an action you start yourself against the Commonwealth);
- 2 **Sign up** to the class action – which you can do in two ways; or
- 3 **Do nothing.**

A. SOME THINGS YOU SHOULD KNOW ABOUT THE CLASS ACTION

What is the class action about?

- 1 The class action seeks compensation (that is, money) for persons who own land in or near Darwin (NT) that may be contaminated as a result of the Commonwealth's use of aqueous film forming foam (AFFF) at the nearby RAAF Base Darwin. You are a class member if, as at 24 November 2016, you owned land located in whole or in part within the area delineated by the solid purple line on the map which is Annexure A to this Notice. The class action also covers other sites around Australia, but this notice only relates to class members in the Darwin (NT) area.
- 2 The class action is against the Commonwealth of Australia. The claimed compensation includes the diminution in property values as a consequence of PFAS contamination as well as for inconvenience, distress and vexation suffered as a consequence of PFAS contamination.
- 3 The class action is not in respect of any personal injury claims that class members may have against the Commonwealth in respect of PFAS contamination.



- 4 The solicitors running the case are Shine Lawyers (**Shine**), and a company named LCM Operations Pty Ltd (**LCM**) is currently funding the case by paying the lawyers and covering any exposure to pay the Commonwealth's costs.
- 5 The class action is expected to go to settlement talks (called a mediation) in the near future.

Is a class member liable for any costs and charges?

- 6 Class members are not, and will not be, liable for any "out of pocket" legal costs by being class members. The costs of running it are being borne in the first instance by LCM and Shine to be distributed upon the resolution of this proceeding as set out in paragraphs 7 and 8 below.
- 7 If the class action is successful (that is, if money compensation is recovered), the Court will be asked to distribute the legal and funding costs, from the money recovered, fairly among all persons who have benefitted from the class action. The effect of any such order, if made, would be that all class members who benefit will contribute to the legal and funding costs. That means even class action members who do not sign up to a funding agreement with LCM might have to contribute out of their share in the same way as those that sign a funding agreement do.
- 8 If the class action is unsuccessful, class members will have no liability to pay any legal and funding costs.

B. YOUR THREE OPTIONS

Option 1 – Opt out and cease to be a class member

- 9 Class members who opt out will not be bound by the outcome of the class action and will not receive any money from the class action if it wins or settles. If you opt out, you will no longer be a party of the class action against the Commonwealth if you wish to do so.
- 10 To opt out of the class action you need to complete the below "Opt out notice" and then return it to the Federal Court of Australia at the address on the form by no later than 4:00pm (Sydney time) on 30 September 2020.
- 11 If you opt out, you may make a financial claim against the Commonwealth in writing (for example, by using the claim form available at: <https://www.defence.gov.au/Environment/PFAS/FinancialClaims.asp>)

Option 2 – Sign up to the class action



- 12 Class members may sign up by providing their details and information about their claims to the lawyers running the class action. This means it is possible for their claims to be more specifically considered at the settlement talks, rather than the lawyers running the class action making assumptions about their claims on the basis of information they can get from other sources.
- 13 You do not have to sign up to remain a class member. However, it is likely that at some point you will need to register your interest to participate anyway – either to get money in any settlement, or (if there is no settlement) to take further steps to bring your claim forward following the initial trial of issues that are common as between the applicants' claims and any claim you may have.
- 14 If you wish to sign up, it will assist the lawyers in being ready for settlement talks that eventuate for you to register by 30 September 2020. If you have already signed a funding agreement with LCM, you do not need to sign up again.
- 15 If you want to sign up, you can do it in one of two ways, by either:
- (a) entering into a funding agreement with LCM (and becoming a **Represented Class Member**); or
 - (b) alternatively, submitted claim details to LCM and Shine without entering into a funding agreement (with the result you will be a **Registered Unrepresented Class Member**).
- 16 Becoming a Represented Class Member will mean you agree to pay, out of any money compensation you are awarded: (a) an amount to LCM for costs it has paid to fund the litigation; (b) a commission; and (c) an amount to cover any legal or administrative costs not funded by LCM. However, if you remain a class member that does not sign a funding agreement with LCM, the Court may still make an order at the end of the proceeding or after settlement that requires you to make a contribution out of any money compensation you receive.
- 17 If you want to sign up as a Represented Class Member, what you need to do is register:
- Online – www.shine.com.au/pfasMultiSite
 - Or
 - By email – pfas@shine.com.au
 - Or
 - By telephone – 1800 066 173

- 18 If you are considering becoming a Represented Class Member, you should read carefully the funding agreement and if you do not understand everything, you should get independent legal advice from your own solicitor.
- 19 If you want to sign up as a Registered Unrepresented Class Member you should register online at www.shine.com.au/pfasMultiSiteUnrepresented or call 1800 066 173. You do not need to sign the funding agreement. This means you will not enter into any contract with LCM or Shine, but it might still assist Shine to consider your details and circumstances in order to consider and advance your claims specified in the settlement talks. Also, at the end of the class action an order may be sought requiring persons who benefit to contribute to the costs and the funding out of any money they receive (see paragraph 7 above).

Option 3 – Do nothing

- 20 Class members who do not opt out by 30 September 2020 (Option 1 above) or sign up (Option 2 above) will remain class members and await the outcome. If you take this option you will be an **Unregistered Class Member** but, as noted above, at some point Unregistered Class Members will need to register to get any money out of any settlement (if that happens) or run their individual case following judgment on common issues (and because you are not a Represented Class Member you will have to pay any legal costs of this individual case yourself, should you choose to prosecute it). Also, at the end of the class action, an order may be made by the Court requiring Unregistered Class Members who benefit to contribute to the costs and funding expenses of LCM and costs incurred by Shine in the same way as Registered Unrepresented Class Members (see paragraph 19 above).

C. THREE IMPORTANT THINGS TO NOTE

- 21 First, this is not a scam. You can check (and get copies of the relevant documents about the class action) online at www.shine.com.au/pfasMultiSite or request them by telephone on 1800 066 173.
- 22 Secondly, as explained above, signing up to the class action (by any mode) will still assist Shine to consider your details and circumstances in order to consider and advance your claim specifically for any settlement talks that may occur in the future.
- 23 Thirdly, if there is anything of which you are unsure or you do not want to speak with Shine (or you want to understand their involvement or the funding agreements better), you should get legal advice from your own solicitor.

Annexure A

