



**ASIC**  
Australian Securities &  
Investments Commission

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# ASIC Corporations (Property Rental Schemes) Instrument 2016/870

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## About this compilation

### Compilation No. 2

This is a compilation of *ASIC Corporations (Property Rental Schemes) Instrument 2016/870* as in force on 5 October 2021. It includes any commenced amendment affecting the legislative instrument to that date.

This compilation was prepared by the Australian Securities and Investments Commission.

The notes at the end of this compilation (the *endnotes*) include information about amending instruments and the amendment history of each amended provision.

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## Part 1—Preliminary

### 1 Name of legislative instrument

This is the *ASIC Corporations (Property Rental Schemes) Instrument 2016/870*.

### 3 Authority

This instrument is made under subsections 601QA(1), 926A(2), 992B(1) and 1020F(1) of the *Corporations Act 2001*.

### 4 Definitions

In this instrument:

*Act* means the *Corporations Act 2001*.

***property rental scheme*** means a managed investment scheme to which all of the following apply:

- (a) the scheme involves owners of interests in real property making their interests available for commercial or residential letting or rental purposes (including day to day management of any lease arrangement);
- (b) the owners have not acquired their interests in real property jointly as a result of participating in the scheme;
- (c) the scheme does not involve a serviced apartment, hotel, motel or resort complex.

***real estate agent*** means a person who is licensed to manage real property under the law of a State or Territory in this jurisdiction.

## Part 2—Exemptions

### 5 Relief from scheme registration under Chapter 5C

A real estate agent who operates a property rental scheme does not have to comply with subsection 601ED(5) of the Act in relation to the scheme.

### 6 Relief from licensing requirement

A person who provides a financial service in relation to an interest in a property rental scheme does not have to comply with subsection 911A(1) of the Act to the extent that it requires the person to hold an Australian financial services licence covering the provision of the service.

Note: *ASIC Corporations (Miscellaneous Technical Relief) Instrument 2015/1115* provides relief from subsections 911A(1) and 911B(1) of the Act to a person who provides financial services on behalf of a person who does not need an Australian financial services licence because of an exemption made under section 926A of the Act.

### 7 Relief from hawking prohibition

An interest in a property rental scheme is exempt from section 992A of the Act.

### 8 Relief from disclosure provisions

An interest in a property rental scheme is exempt from Divisions 2 to 4 of Part 7.9 of the Act.

Note 1: The provision of the relief in sections 5 to 8 should not be taken to imply that the ordinary business of real estate agents in leasing or managing property generally or necessarily involves a managed investment scheme. This will not be the case where, for example, the owner of the property has day to day control through being able to give directions to their agent. The relief is provided for the avoidance of doubt and to provide legal certainty.

Note 2: Conditional relief in relation to arrangements involving a serviced apartment, hotel, motel or resort complex is given by *ASIC Corporations (Serviced Apartment and Like Schemes) Instrument 2016/869*.

## Endnotes

### Endnote 1—Instrument history

Instrument number	Date of FRL registration	Date of commencement	Application, saving or transitional provisions
2016/870	23/9/2016 (see F2016L01474)	28/9/2016	
2017/580	3/7/2017 (see F2017L00871)	4/7/2017	-
2021/799	22/9/2021 (see F2021L01310)	5/10/2021	-

### Endnote 2—Amendment history

ad. = added or inserted am. = amended LA = *Legislation Act 2003* rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Section 2	rep. s48D LA
Section 6 (note)	am. 2017/580
Section 7	am. 2021/799