



# **National Rental Affordability Scheme Amendment (Approved Participant Obligations) Regulations 2017**

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I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 14 December 2017

Peter Cosgrove  
Governor-General

By His Excellency's Command

Christian Porter  
Minister for Social Services

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# Contents

|   |                                                              |          |
|---|--------------------------------------------------------------|----------|
| 1 | Name.....                                                    | 1        |
| 2 | Commencement .....                                           | 1        |
| 3 | Authority.....                                               | 1        |
| 4 | Schedules.....                                               | 1        |
|   | <b>Schedule 1—Amendments</b>                                 | <b>2</b> |
|   | <i>National Rental Affordability Scheme Regulations 2008</i> | <i>2</i> |



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## 1 Name

This instrument is the *National Rental Affordability Scheme Amendment (Approved Participant Obligations) Regulations 2017*.

## 2 Commencement

- (1) Each provision of this instrument 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. The whole of this instrument | The day after this instrument is registered. | 21 December 2017 |

Note: This table relates only to the provisions of this instrument as originally made.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

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

## 3 Authority

This instrument is made under the *National Rental Affordability Scheme Act 2008*.

## 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

## Schedule 1—Amendments

### *National Rental Affordability Scheme Regulations 2008*

#### **1 Paragraph 17(3)(h)**

Omit “obligation under Division 2 of Part 4, or details of any way in which that obligation was”, substitute “obligations under Division 2 of Part 4, or details of any way in which those obligations were”.

#### **2 Paragraphs 21A(2)(b) and 22(1)(aa)**

Omit “obligation”, substitute “obligations”.

#### **3 Division 2 of Part 4 (heading)**

Omit “**Obligation**”, substitute “**Obligations**”.

#### **4 Regulation 30A (heading)**

Omit “**obligation**”, substitute “**obligations**”.

#### **5 Subregulation 30A(1)**

Omit “obligation”, substitute “obligations”.

#### **6 At the end of Division 2 of Part 4**

Add:

#### **30C Incentives not to be withheld or refused if investor fails or refuses to accept other services provided by approved participant**

- (1) This regulation applies if:
  - (a) an approved participant is required, under a contractual arrangement with an investor for an approved rental dwelling, to pass on all or part of an incentive in relation to the approved rental dwelling to the investor; and
  - (b) the contractual arrangement is expressed to be subject to a term that the investor must use a tenancy management service (or any similar, or other, service) that is provided by the approved participant or another person specified by the approved participant; and
  - (c) the investor fails, or refuses, to use the service.
- (2) The approved participant:
  - (a) must comply with the requirement mentioned in paragraph (1)(a) as if the term were not included in the contractual arrangement; and
  - (b) must not terminate the contractual arrangement only because the investor fails, or refuses, to use the service.

#### **30D Incentives not to be withheld or refused if bond not paid**

- (1) This regulation applies if:
  - (a) an approved participant is required, under a contractual arrangement with an investor for an approved rental dwelling, to pass on all or part of an incentive in relation to the approved rental dwelling to the investor; and

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- (b) the contractual arrangement is expressed to be subject to a term that the investor or another person must pay to the approved participant a monetary bond (however described) if:
    - (i) the investor uses a service (the *alternative service*) of a kind mentioned in paragraph 30C(1)(b); and
    - (ii) the alternative service is not provided by the approved participant or a person specified by the approved participant; and
  - (c) the investor uses the alternative service and the bond is not paid to the approved participant.
- (2) The approved participant:
- (a) must comply with the requirement mentioned in paragraph (1)(a) as if the term were not included in the contractual arrangement; and
  - (b) must not terminate the contractual arrangement only because the investor uses the alternative service and the bond is not paid to the approved participant.

## **7 At the end of Part 6**

Add:

### **Division 3—Amendments made by the National Rental Affordability Scheme Amendment (Approved Participant Obligations) Regulations 2017**

#### **37 Application**

Regulations 30C and 30D, as inserted by item 6 of Schedule 1 to the *National Rental Affordability Scheme Amendment (Approved Participant Obligations) Regulations 2017*, apply in relation to an approved participant who enters into a contractual arrangement with an investor on or after the commencement of that item.