

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

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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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Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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

(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.