



# **National Housing Finance and Investment Corporation Investment Mandate Direction 2018**

made under subsection 12(1) of the *National Housing Finance and Investment Corporation Act 2018*

## **Compilation No. 10**

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**Includes amendments up to:** *National Housing Finance and Investment Corporation Investment Mandate (National Housing Accord—Preparatory Work) Direction 2023*

Prepared by The Treasury

# About this compilation

## **This compilation**

This is a compilation of the *National Housing Finance and Investment Corporation Investment Mandate Direction 2018* that shows the text of the law as amended and in force on 5 September 2023 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

## **Uncommenced amendments**

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Register ([www.legislation.gov.au](http://www.legislation.gov.au)). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the Register for the compiled law.

## **Application, saving and transitional provisions for provisions and amendments**

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

## **Modifications**

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the Register for the compiled law.

## **Self-repealing provisions**

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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## Part 1—Preliminary

### 1 Name

This Direction is the *National Housing Finance and Investment Corporation Investment Mandate Direction 2018*.

### 3 Authority

This Direction is made under subsection 12(1) of the *National Housing Finance and Investment Corporation Act 2018*.

### 4 Definitions

Note: A number of expressions used in this Direction are defined in the Act, including the following:

- (a) Board;
- (aa) guarantee liabilities;
- (b) NHFIC;
- (c) registered community housing provider.

In this Direction:

**Act** means the *National Housing Finance and Investment Corporation Act 2018*.

**AHBA** (for Affordable Housing Bond Aggregator) means the bond aggregator established for section 6 and Part 3.

**Australian Statistical Geography Standard** means the Australian Statistical Geography Standard (ASGS): Volume 1 - Main Structure and Greater Capital City Statistical Areas, July 2016, published by the Australian Bureau of Statistics, as existing at the time this instrument commenced.

Note: The Standard could in 2022 be viewed on the Australian Bureau of Statistics website (<https://www.abs.gov.au>).

**capacity building contract** means a contract made under Part 5 with a person or entity for the provision of services to a registered community housing provider.

**capital city**—see subsection 4A(1).

**Commercial Financier** means a private sector body that provides finance or investment into infrastructure projects.

**constitutional corporation** means a corporation to which paragraph 51(xx) of the Constitution applies.

**eligible home buyer**—see section 29D.

**eligible lender**—see section 29B.

**eligible loan**—see section 29C.

**eligible single legal guardian**—see section 29D.

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**eligible single parent**—see section 29D.

**Family Home Guarantee** means:

- (a) a guarantee issued under subsection 29IB(1); or
- (b) a guarantee issued during the 202122 financial year under subsection 29IB(1) (as in force immediately before 1 July 2022).

**financing decision** means a decision to make a loan, investment or grant.

**financing proposal** means a proposal made to the NHFIC seeking a loan, investment or grant.

**First Home Guarantee** means a guarantee issued under section 29I.

**Home Guarantee Scheme**—see section 8A.

**housing-enabling infrastructure**—see subsection 21A(2).

**housing-enabling infrastructure project**—see subsection 21A(1).

**housing-enabling infrastructure special purpose vehicle**—see subsection 22(2).

**infrastructure loan, investment or grant** means a loan, investment or grant made under Part 4.

**local governing body** has the same meaning as in the *Local Government (Financial Assistance) Act 1995*.

**major bank** means one of the following groups of entities, treated as a single entity:

- (a) the Australia and New Zealand Banking Group Limited (ACN 005 357 522) and its related bodies corporate;
- (b) the Commonwealth Bank of Australia (ACN 123 123 124) and its related bodies corporate;
- (c) National Australia Bank Limited (ACN 004 044 937) and its related bodies corporate;
- (d) Westpac Banking Corporation (ACN 007 457 141) and its related bodies corporate.

**minimum target value**, of the Permanent Fund—see section 14.

**New Home Guarantee** means a guarantee issued under section 29IA.

**newly built dwelling** means a dwelling that meets the requirements of subsection 40-75(1) of the *A New Tax System (Goods and Services Tax) Act 1999*, other than a dwelling that, prior to sale, has been rented or leased, or made available for rental or lease, as commercial residential premises or residential premises (as those terms are defined in that Act).

**NHIF** (for National Housing Infrastructure Facility) means the facility established for section 7 and Part 4.

**Permanent Fund**—see section 13.



**permanent resident** has the same meaning as in the *Australian Citizenship Act 2007*.

**price cap**—see section 29F.

**project proponent** means the entity responsible for a project.

**regional area**—see subsection 4A(3).

**regional centre**—see subsection 4A(2).

**Regional First Home Buyer Guarantee** means a guarantee issued under section 29IBA.

**related body corporate** has the same meaning as in the *Corporations Act 2001*.

**residential property** has the same meaning as in the *National Consumer Credit Protection Act 2009*.

**social or affordable housing project**—see subsection 21A(3).

**social or affordable housing special purpose vehicle**—see subsection 22A(2).

**Statistical Area Level 4 area** has the same meaning as in the Australian Statistical Geography Standard.

**underlying eligible member:**

- (a) of a housing-enabling infrastructure special purpose vehicle—means a member of the housing-enabling infrastructure special purpose vehicle that is an entity mentioned in paragraphs 22(1)(a) to (f); or
- (b) of a social or affordable housing special purpose vehicle—means a member of the social or affordable housing special purpose vehicle that is an entity mentioned in paragraphs 22A(1)(a) to (f).

**unissued**, in relation to guarantees that the NHFIC may issue under the Home Guarantee Scheme, means the difference between the number of guarantees that the NHFIC may issue in a financial year (worked out under section 29I, 29IA or 29IB), and the number of guarantees issued in the financial year.

**value**, in relation to a residential property, means the value assessed by the eligible lender at the time a loan is entered into, in accordance with standard lending practice in the residential mortgage market.

#### **4A Meaning of capital city, regional centre and regional area**

- (1) The **capital city** of a State or the Northern Territory is the Greater Capital City Statistical Area (within the meaning of the Australian Statistical Geography Standard) in that State or Territory.
- (2) A **regional centre** for a State specified in an item in the following table is one of the Statistical Area Level 4 areas specified in that item.

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Item	State	Regional Centre
1	New South Wales	Newcastle and Lake Macquarie Illawarra
2	Victoria	Geelong
3	Queensland	Gold Coast Sunshine Coast

(3) A **regional area** is:.

- (a) a Statistical Area Level 4 area in a State or the Northern Territory that is not the capital city of that State or Territory; or
- (b) Norfolk Island; or
- (c) the Jervis Bay Territory; or;
- (d) the Territory of Christmas Island; or;
- (e) the Territory of Cocos (Keeling) Islands.

### 5 Purpose of this Direction

The purpose of this Direction is to give directions to the Board in relation to the performance of the NHFIC's functions under section 8 of the Act.

Note: This Direction, with any other directions made under subsection 12(1) of the Act, together constitute the Investment Mandate for the NHFIC.

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## Part 2—Activities and allocation of funds

### Division 1—Activities

#### 6 Establishment and operation of Affordable Housing Bond Aggregator

The NHFIC must establish a bond aggregator to provide loans to registered community housing providers (the *AHBA*), and operate it in accordance with Part 3.

#### 7 Establishment and operation of National Housing Infrastructure Facility

The NHFIC must establish and operate a facility (the *NHIF*) to make infrastructure loans, investments and grants in accordance with Part 4.

#### 8 Support for capacity building

The NHFIC may provide support for capacity building in accordance with Part 5.

#### 8A Establishment and operation of Home Guarantee Scheme

The NHFIC must establish and operate a scheme to issue guarantees to eligible lenders in relation to eligible loans, in accordance with Part 5A (the *Home Guarantee Scheme*).

#### 8B Research into housing affordability in Australia

The NHFIC must conduct research into housing affordability in Australia, in accordance with Part 5B.

#### 8C Preparatory work for National Housing Accord commitment

- (1) The NHFIC may undertake preparatory work for the delivery of the Australian Government's commitment under the National Housing Accord 2022 to support an additional 10,000 affordable dwellings over 5 years from 2024 (the *National Housing Accord commitment*), subject to subsections (2) and (3).
- (2) The preparatory work must be incidental or conducive to the performance of the NHFIC's functions under subsection 8(1) of the Act.
- (3) In undertaking the preparatory work, the NHFIC must not:
  - (a) enter into contracts for loans, investments, grants or guarantees relating to the provision of housing under the National Housing Accord commitment; or
  - (b) commence a process for selecting a particular recipient of a loan, investment, grant or guarantee relating to the provision of housing under the National Housing Accord commitment.

## Section 9

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### **9 No further activities**

- (1) The NHFIC must not spend money (including making loans, investments or grants) otherwise than:
  - (a) for the purposes of sections 6 to 8C; or
  - (b) to make an investment in accordance with section 59 of the *Public Governance, Performance and Accountability Act 2013*; or
  - (c) for incidental purposes.
- (2) The NHFIC must not enter into arrangements mentioned in paragraph 9(2)(b) of the Act otherwise than:
  - (a) for the purposes of sections 6 to 8; or
  - (b) for incidental purposes.

Note: Paragraph 9(2)(b) of the Act covers swaps, foreign exchange agreements, forward rate agreements, options or hedge agreements, and similar arrangements.

### **10 Application of commercial discipline**

Except as provided in this Direction, the NHFIC must apply commercial discipline when making financing decisions and decisions for the purposes of the Home Guarantee Scheme.

## **Division 2—Allocation and repayment of funds—AHBA**

### **11 AHBA reserve**

- (1) The Board must allocate to a reserve for the AHBA amounts that the NHFIC borrows from the Commonwealth, out of money appropriated by the Parliament for the purpose of the reserve.
- (2) The Board may allocate up to \$1 billion to the AHBA reserve.
- (3) Subject to subsection (5), an amount allocated to the reserve (an **allocation**) must relate to a particular loan by the NHFIC to a registered community housing provider.
- (4) Within 6 months after the day when the loan is required to be repaid to the NHFIC, or at a later time allowed by the Minister, the NHFIC must:
  - (a) repay to the Commonwealth an amount equal to the allocation, adjusted to cover the Commonwealth's cost of borrowing; and
  - (b) reduce the reserve by the allocation.
- (5) An allocation may be used by the NHFIC for a purpose other than to provide a loan to a registered community housing provider with the approval of, and in accordance with terms and conditions agreed with, the Minister and the Minister for Finance. The NHFIC must repay to the Commonwealth an amount equal to the allocation, adjusted to cover the Commonwealth's cost of borrowing, in accordance with those terms and conditions, and reduce the reserve by the allocation.
- (6) The NHFIC must aim to maintain the reserve in the medium to long term at no more than one third of its total liabilities in relation to the AHBA.
- (7) The NHFIC must develop a business plan to achieve that aim, and provide a copy to the Minister by 30 June 2019.

### **12 Payment of AHBA dividends**

The Board must consider recommending the payment of a dividend under section 49 of the Act if the average return of the AHBA over the long term is substantially above the benchmark return set for the Board under section 20.

## Section 13

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### Division 3—Allocation and maintenance of funds—NHIF and capacity building

#### 13 Establishment of Permanent Fund

- (1) The NHFIC must establish a fund (the ***Permanent Fund***) for the purposes of Part 4 (National Housing Infrastructure Facility), that consists at any time of:
  - (a) any current infrastructure loans or investments; and
  - (b) funds available for the purposes of:
    - (i) making infrastructure loans and investments; and
    - (ii) meeting the operating costs of the NHIF.
- (2) The Board must allocate amounts appropriated by the Parliament for the purposes of the NHIF to the Permanent Fund.
- (3) Any returns on infrastructure loans and investments must be returned to the Permanent Fund.

#### 14 Minimum target value of Permanent Fund

- (1) The Board must aim to maintain the value of the Permanent Fund in the medium to long term at no less than the minimum target value.
- (2) For this Direction the ***minimum target value*** of the Permanent Fund at a particular time is the sum of the amounts allocated to the Fund under subsection 13(2), adjusted to cover the Commonwealth's cost of borrowing.

#### 15 Limit on grants and capacity building contracts

- (1) The total value of the amounts payable by the NHFIC under infrastructure grants and capacity building contracts must not exceed \$175 million.
- (2) The total value of the amounts payable by the NHFIC under capacity building contracts must not exceed \$1.5 million.

## Part 3—Affordable housing bond aggregator

### The affordable housing bond aggregator

The AHBA operates by the NHFIC making loans to registered community housing providers, using money borrowed from the Commonwealth (see section 11) and by raising finance by the issue of bonds on the commercial market. The mechanism will allow money to be raised on a larger scale and on different terms to those that would be possible for the individual providers; the savings will be passed on to the providers in the form of lower interest loans and reduced refinancing risks, enabling them to improve housing outcomes for their clients.

## Division 1—Financing mechanisms and eligibility

### 16 Eligibility for loans

- (1) The NHFIC must not provide loans through the AHBA to an entity other than a registered community housing provider.
- (2) The NHFIC may provide a loan in relation to a mixed tenure development only if it is satisfied that any profits from the development will be applied to support affordable housing outcomes.
- (3) The NHFIC may specify eligibility criteria that must be satisfied by registered community housing providers, or classes of providers.

### 17 Financing mechanism

The NHFIC must obtain security from providers for any loan, at a level that is appropriate having regard to the risk to the NHFIC and the Commonwealth.

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### Division 2—Criteria for lending

#### 18 Purpose of the AHBA

The Board must aim to provide loans to registered community housing providers at the lowest cost and most appropriate tenor possible, after recovering operational and financing costs and building capital reserves in accordance with this Division. Where appropriate, different loan products should be offered to meet the varying needs of registered community housing providers.

#### 19 Matters to be considered when making lending decisions

In deciding whether to make a particular loan, and in setting its conditions, the Board must have regard to the following matters:

- (a) the purpose for which the loan is being sought and the extent to which that purpose supports affordable housing outcomes;
- (b) the credit-worthiness of the registered community housing provider;
- (c) whether private sector finance would be available to the registered community housing provider and, if so, the terms on which that finance would be available;
- (ca) whether the loan would encourage private sector participation in supporting affordable housing outcomes;
- (d) the likelihood that the NHFIC will receive a return from the loan and the likely extent of that return;
- (e) the quality of any security available from the registered community housing provider;
- (f) the expected price of funds raised by the NHFIC bonds during the life of the loan;
- (g) whether the loan would complement, leverage or support other Commonwealth, State or Territory finance or activities;
- (h) the object of the Act and the limits set in the Act.

#### 20 Benchmark return

The Board must target an average return on its loans to registered community housing providers that allows it to:

- (a) cover the operating costs of the AHBA; and
- (b) build an adequate capital reserve in accordance with subsection 48(1) of the Act.

#### 21 Risk level

- (1) In targeting the benchmark return for the AHBA, the NHFIC must seek to develop a portfolio that in aggregate has an acceptable but not excessive level of risk, having regard to the terms of the Act and the purpose of the AHBA.



Section 21

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- (2) Within 6 months of the commencement of this Direction, the Board must agree a suitable investment risk evaluation process to assess the AHBA risk, and must advise the Minister of the process chosen.

Section 21A

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## Part 4—National Housing Infrastructure Facility

### The National Housing Infrastructure Facility

The purpose of the NHIF is:

- (a) to overcome impediments to the provision of housing that are due to the lack of necessary infrastructure; and
- (b) to increase the availability of social and affordable housing.

The NHIF does this by providing finance for eligible infrastructure and housing projects that would not otherwise have proceeded, or that would only have proceeded at a much later date or with a lesser impact on new social or affordable housing.

## Division 1—Financing mechanisms and eligibility

### 21A Housing-enabling infrastructure projects and social or affordable housing projects

- (1) A ***housing-enabling infrastructure project*** is a project that:
  - (a) would provide housing-enabling infrastructure; and
  - (b) would not itself provide housing; and
  - (c) would not provide community infrastructure, such as parks, day-care centres or libraries.
- (2) ***Housing-enabling infrastructure*** is:
  - (a) critical infrastructure to support new housing (particularly new social or affordable housing), including new or upgraded infrastructure for services such as water, sewerage, electricity, telecommunications or transportation; or
  - (b) site remediation works relating to new housing (particularly new social or affordable housing), including the removal of hazardous waste or contamination.
- (3) A ***social or affordable housing project*** is a project that would provide new social or affordable housing (whether or not the project would also provide other types of new housing).

### 22 Eligible project proponents for housing-enabling infrastructure projects

- (1) To be eligible for finance under the NHIF for a housing-enabling infrastructure project, a project proponent must be:
  - (a) a State or Territory; or
  - (b) a local governing body; or
  - (c) a local government-owned investment corporation or utility provider that is a constitutional corporation; or

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- (d) a State government-owned utility provider that forms part of the State or that is a constitutional corporation; or
  - (e) a Territory government-owned utility provider; or
  - (f) a registered community housing provider; or
  - (g) an entity that is a housing-enabling infrastructure special purpose vehicle.
- (2) An entity is a ***housing-enabling infrastructure special purpose vehicle*** if:
- (a) it has a purpose of undertaking housing-enabling infrastructure projects; and
  - (b) at least one of its members is an entity mentioned in paragraphs (1)(a) to (f).

**22A Eligible project proponents for social or affordable housing projects**

- (1) To be eligible for finance under the NHIF for a social or affordable housing project, the project proponent must be:
- (a) a State or Territory; or
  - (b) a local governing body; or
  - (c) a local government-owned corporation (other than a utility provider) that is a constitutional corporation; or
  - (d) a State government-owned corporation (other than a utility provider) that is a constitutional corporation; or
  - (e) a Territory government-owned corporation (other than a utility provider) that is a constitutional corporation; or
  - (f) a registered community housing provider that is a constitutional corporation; or
  - (g) a social or affordable housing special purpose vehicle that is a constitutional corporation.

Note: If the project proponent is a local governing body, the project may be financed only through a grant of financial assistance to a State or Territory: see subsection 24(6).

- (2) An entity is a ***social or affordable housing special purpose vehicle*** if:
- (a) it has a purpose of undertaking social or affordable housing projects; and
  - (b) at least one of its members is an entity mentioned in paragraphs (1)(a) to (f).

**23 Eligible projects**

Finance under the NHIF must be provided for a project only if the project:

- (a) is:
  - (i) a housing-enabling infrastructure project; or
  - (ii) a social or affordable housing project; and
- (d) would be unlikely to proceed, or would be likely to proceed only at a much later date, or with a lesser impact on new social or affordable housing, without finance under the NHIF.

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### **23A Identifying eligible projects**

The NHFIC must:

- (a) make reasonable efforts to identify projects, or potential projects, in each State and Territory that could be suitable for financing under the NHIF; and
- (b) promote the NHIF to the proponents of such projects.

### **24 Financing mechanisms**

- (1) A project may be financed under the NHIF through:
  - (a) one or more loans; or
  - (b) if the project is a housing-enabling infrastructure project—one or more investments; or
  - (c) one or more grants; or
  - (d) any combination of any of the above.

#### *Loans*

- (2) The NHFIC may provide, but is not limited to, the following loan concessions:
  - (a) longer loan tenor than offered by Commercial Financiers;
  - (b) lower interest rates than offered by Commercial Financiers;
  - (c) extended periods of capitalisation of interest beyond construction completion;
  - (d) deferral of loan repayments or other types of tailored loan repayment schedules;
  - (e) lower or different fee structures than those offered by Commercial Financiers.
- (3) For a project proponent other than a State or Territory, the NHFIC must obtain security for any loan, at a level that is appropriate having regard to the risk to the NHFIC and the Commonwealth.

#### *Investments*

- (4) The NHFIC may make an investment in relation to a housing-enabling infrastructure project by acquiring an equity interest in the project proponent.

#### *Grants*

- (5) Grant proposals seeking other forms of financing from the NHIF as part of a blended financing arrangement are to be preferred.

#### *Financing local governing bodies for social or affordable housing projects*

- (6) If the project proponent for a social or affordable housing project is a local governing body, the project may be financed only through a grant of financial assistance to a State or Territory.

Note: A term or condition for the grant of financial assistance may be that the State or Territory make a loan, investment or grant to the local governing body.

Section 25

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**Division 2—Criteria for financing decisions**

**25 Matters to be considered when making financing decisions**

- (1) The NHFIC must be satisfied of the following in order to provide finance under the NHIF:
  - (a) the project proponent is eligible under section 22 or 22A;
  - (b) the project is eligible under section 23;
  - (c) the risk that any loan will not be repaid does not exceed an acceptable level.
- (2) In making a financing decision, the NHFIC must have regard to the following:
  - (a) the likely effect of the project on the supply and ongoing availability of social or affordable housing;
  - (b) the extent of any concession that it would be appropriate to offer;
  - (c) the quality of the security available from the project proponent;
  - (d) the credit-worthiness of the project proponent;
  - (e) whether finance under the NHIF is needed to encourage private sector participation in financing the project;
  - (f) whether finance under the NHIF would complement, leverage or support other Commonwealth, State or Territory finance or activities;
  - (g) the object of the Act and the limits set in the Act;
  - (h) where the project proponent is a housing-enabling infrastructure special purpose vehicle or a social or affordable housing special purpose vehicle—the extent to which its underlying eligible members will be involved in the project over its duration.

**26 Matters to be considered when determining concessions**

- (1) In determining any concession to be granted in making a financing decision, the NHFIC must have regard to the following:
  - (a) the extent and mix of all concessions necessary for the proposal to proceed;
  - (b) if the project is a housing-enabling infrastructure project—the extent of any public benefit that would result from the housing-enabling infrastructure;
  - (ba) if the project is a social or affordable housing project—the extent of any public benefit that would result from the new housing;
  - (c) the object of the Act.
- (2) The NHFIC must limit the concessions offered to the minimum that it considers are needed for the proposal to proceed in the proposed timeframe.
- (3) The NHFIC may propose contract terms to ensure that the NHIF is not providing greater concessions than it considers are needed.

## **27 Benchmark rate of return**

The Board is to target an average return that allows it to at least maintain the minimum target value set under section 14.

## **28 Risk level**

- (1) In targeting the benchmark return for the NHIF, the NHFIC must seek to develop a portfolio that in aggregate has an acceptable but not excessive level of risk, having regard to the terms of the Act and the purpose of the NHIF.
- (2) Within 6 months of the commencement of this Direction, the Board must agree a suitable investment risk evaluation process to assess the NHIF risk, and must advise the Minister of the process chosen.

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**Division 3—General matters**

**28A Quarterly reporting to Minister in relation to NHIF**

- (1) As soon as practicable after the end of:
  - (a) the 3 months starting on 1 January 2023; and
  - (b) each successive 3 months;the NHFIC must report to the Minister on the activities of the NHFIC under Divisions 1 and 2 during the 3 months.
- (2) Without limiting subsection (1), a report for 3 months must set out the following information in relation to each housing-enabling infrastructure project or social or affordable housing project that the NHFIC decided, during the 3 months, to finance under the NHIF:
  - (a) the project proponent of the project;
  - (b) the location of the project;
  - (c) the types of persons that would be assisted by the project;
  - (d) the relative amounts of:
    - (i) social housing; and
    - (ii) affordable housing; and
    - (iii) other housing;that would be provided by the project;
  - (e) information about the financing for the project under the NHIF, including:
    - (i) whether the financing is to be through a loan, investment or grant, or through a combination of 2 or more of these types of financing; and
    - (ii) details of each loan, investment or grant for the project;
  - (f) the level of financing for the project from sources other than the NHIF;
  - (g) the expected completion date of the project.



## **Part 5—Support for capacity building**

### **Capacity building**

The NHFIC may provide support for capacity building under this Part to assist registered community housing providers to further develop their financial and management capabilities. This support would be provided by the NHFIC entering into contracts with persons or entities to provide services to registered community housing providers for this purpose.

### **29 Support for capacity building**

The NHFIC may enter into contracts with persons or entities to provide services to registered community housing providers for the purpose of developing their financial and management capabilities.

## Part 5A—Home Guarantee Scheme

### Home Guarantee Scheme

This Part deals with the Home Guarantee Scheme. The Home Guarantee Scheme is made up of 4 different streams of guarantees.

### First Home Guarantee

The purpose of the First Home Guarantee is to facilitate first home buyers, and buyers who have not held an ownership interest in Australian land in the last 10 years, entering into the housing market sooner. It does this by allowing the NHFIC to issue up to 35,000 guarantees each financial year from 2022-23 for loans to such home buyers with a deposit of between 5 and 20 per cent of the property's value.

### New Home Guarantee

The New Home Guarantee is a part of the Home Guarantee Scheme that specifically relates to building a new dwelling or purchasing a newly built dwelling. The purpose of the New Home Guarantee is to support jobs in the residential construction sector and promote home ownership. It does this by allowing the NHFIC to issue up to an additional 10,000 guarantees for each of the 2020-21 and 2021-22 financial years for loans to first home buyers to purchase a newly built dwelling or build such a dwelling. Any unissued New Home Guarantees from 2020-21 can be rolled over into the 2021-22 financial year at the discretion of the responsible Minister; however unissued New Home Guarantees from 2021-22 cannot be rolled over into the following financial year. The New Home Guarantee stream is now closed, and further New Home Guarantees cannot be issued.

### Family Home Guarantee

The Family Home Guarantee is a part of the Home Guarantee Scheme that specifically relates to single parents, or single legal guardians, with dependants, including those who are not first home buyers. The purpose of the Family Home Guarantee is to support such single parents, or single legal guardians, on a pathway to home ownership. It does this by allowing NHFIC to issue up to an additional 5,000 guarantees for each of the 2022-23, 2023-24 and 2024-25 financial years to eligible single parents, or single legal guardians, with a deposit of between 2 and 20 per cent of the property's value. An eligible single parent, or single legal guardian, is not required to be a first home buyer at the time of entering into a loan under the Family Home Guarantee. However, at that time, they must not own property unless, stated broadly:

- they are selling that property at the same time as they are purchasing property under the Family Home Guarantee; or
- they are buying out the existing family home.

The single parent, or single legal guardian, must meet the eligible lender's credit assessment criteria.

### **Regional First Home Buyer Guarantee**

The purpose of the Regional First Home Buyer Guarantee is to help persons living in a regional area to purchase a home in that area. It does this by allowing the NHFIC to issue up to an additional 10,000 guarantees for each of the 2022-23, 2023-24 and 2024-25 financial years. Additional eligibility requirements relating to the area in which the home is located, and residency in the area, must be satisfied.

## **Division 1—Eligibility**

### **29A Eligibility for guarantees**

The NHFIC must not issue a guarantee to an entity other than an eligible lender, in relation to an eligible loan.

### **29B Eligible lender**

- (1) An **eligible lender**, in relation to a guarantee issued during a particular financial year, is an entity approved by the NHFIC, for the purposes of this section, as an eligible lender for the financial year during which the NHFIC approved the issue of the guarantee.
- (2) The NHFIC must establish criteria and processes for the approval of entities as eligible lenders.
- (2A) The NHFIC may establish different criteria and processes in relation to the approval of eligible lenders for guarantees issued under each of sections 29I, 29IA, 29IB and 29IBA.
- (3) The criteria for the approval of entities as eligible lenders must include criteria which are directed at assessing all of the following matters:
  - (a) an entity's standards of customer care, including treatment of borrowers in financial hardship;
  - (b) the competitiveness of loan products offered by an entity, including interest rates and other fees;
  - (c) the quality of an entity's loan origination processes and the associated level of financial risk to the Commonwealth;
  - (d) the reputation of an entity;
  - (e) the extent to which approval of an entity would promote competition in lending markets and related markets;
  - (f) the extent to which the entities approved for a financial year, considered together, can undertake credit activities across Australia (including through other entities providing credit services).

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(5) In this section:

*credit activities* has the same meaning as in the *National Consumer Credit Protection Act 2009*.

*credit service* has the same meaning as in the *National Consumer Credit Protection Act 2009*.

### 29C Eligible loan

(1) A loan is an *eligible loan* if:

- (a) subsection (2) or (4) applies; and
- (b) any criteria and processes established by the NHFIC for the approval of eligible loans are satisfied.

(2) Subject to subsections (2A) and (2B), this subsection applies to a loan for which all of the following are satisfied at the time the loan agreement is entered into:

- (a) the loan is made by an eligible lender;
- (b) there are no more than two borrowers under the loan agreement;
- (d) each borrower under the loan agreement is an eligible home buyer;
- (e) the loan is for the purchase of residential property;
- (f) if the loan relates to the purchase of an interest in land on which a dwelling is not affixed, the loan also relates to the construction of a dwelling on the land;
- (g) the value of the residential property does not exceed the price cap for the area in which the property is located;
- (h) the residential property that is the subject of the loan is to be owner-occupied;
- (i) the loan-to-value ratio is between 80 and 95 per cent;
- (j) subject to subsection (3), the terms of the loan agreement require scheduled repayments of the principal of the loan for the full period of the agreement;
- (k) the loan agreement has a term of no more than 30 years;
- (l) for a Regional First Home Buyer Guarantee:
  - (i) the residential property is located in a regional area; and
  - (ii) at least one borrower under the loan agreement either, has lived throughout the previous 12 month period in the regional area or an adjacent regional area, or is covered by subsection (2AA).

(2AA) The borrower is covered by this subsection if:

- (a) the borrower has lived during some of the previous 12 month period in the regional area or an adjacent regional area; and
- (b) it has been impracticable for the borrower to live in the regional area or an adjacent regional area for the remainder of that period because the borrower has, after having been employed by the same employer for at least 12 months, been required, by that employer, to relocate.

(2A) For a New Home Guarantee, the requirements in paragraphs (2)(a) to (g) must instead be satisfied at the time the borrower or borrowers make an application for

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a loan, or when the contract to which the loan agreement relates is entered into (as relevant).

Note: The requirements in paragraphs (2)(h) to (k) must be satisfied at the time the loan agreement is entered into.

- (2B) For a Family Home Guarantee, paragraphs (2)(b), (d) and (i) do not apply and the following requirements must be satisfied instead:
- (a) there is a single borrower under the loan agreement who will be the only registered owner of the property;
  - (b) the borrower is an eligible single parent or an eligible single legal guardian;
  - (c) the loan-to-value ratio is between 80 and 98 per cent.
- (3) For paragraph (2)(j), if the loan relates both to the purchase of an interest in land on which a dwelling is not affixed and to the construction of a dwelling on the land, the loan may be an eligible loan even if the terms of the loan agreement permit interest-only repayments for a specified period.
- (4) This subsection applies to a loan if:
- (a) the loan (the refinancing loan) is for the sole purpose of fully satisfying the obligations of a borrower or borrowers under an existing loan; and
  - (b) the NHFIC has previously issued a guarantee under this Part relating to the existing loan; and
  - (c) no claim has been made in respect of the guarantee; and
  - (d) the guarantee remains in force until the refinancing loan is entered into.

**29D Eligible home buyer, eligible single parent and eligible single legal guardian**

- (1) Subject to subsection (2), a person is an **eligible home buyer** in relation to a loan if, at the time the loan agreement is entered into:
- (a) the person has not, in the last 10 years, held a freehold interest in real property in Australia, or a relevant interest in land; and
  - (b) the person is at least 18 years of age and either an Australian citizen or a permanent resident; and
  - (c) the person satisfies the income test.
- (2) For a New Home Guarantee, the requirements in subsection (1) must instead be satisfied at the time the person makes an application for a loan, or when the contract to which the loan agreement relates is entered into (as relevant).
- (3) A person is an **eligible single parent** in relation to a loan if, at the time the loan agreement is entered into:
- (a) the person either:
    - (i) does not hold a freehold interest in real property in Australia; or
    - (ii) does hold such an interest, but either:
      - (A) intends not to after no more than 4 weeks from when they become the registered owner of the property that will be purchased with the loan; or

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- (B) holds it as joint tenant or tenant in common in the property to which the loan relates, and intends to become the sole registered owner of the property as a result of the loan; and
  - (aa) the person does not hold a relevant interest in land; and
  - (b) the person is at least 18 years of age and either an Australian citizen or a permanent resident; and
  - (c) the person satisfies the income test; and
  - (d) the person is single; and
  - (e) the person has at least one dependent child.
- (3A) A person is an **eligible single legal guardian** in relation to a loan if, at the time the loan agreement is entered into:
- (a) the person either:
    - (i) does not hold a freehold interest in real property in Australia; or
    - (ii) does hold such an interest, but either:
      - (A) intends not to after no more than 4 weeks from when they become the registered owner of the property that will be purchased with the loan; or
      - (B) holds it as joint tenant or tenant in common in the property to which the loan relates, and intends to become the sole registered owner of the property as a result of the loan; and
  - (b) the person does not hold a relevant interest in land; and
  - (c) the person is at least 18 years of age and either an Australian citizen or a permanent resident; and
  - (d) the person satisfies the income test; and
  - (e) the person is single; and
  - (f) the person is the legal guardian of at least one dependent child.
- (4) For this section, a person is **single** if:
- (a) the person does not have a spouse; and
  - (b) the person does not have a de facto partner.
- (5) For this section, a person is a **dependent child** of a second person (**the adult**) if:
- (a) the adult is a natural or adoptive parent of the person; and
  - (b) either:
    - (i) the person is a dependent child of the adult within the meaning of subsections (2), (3), (4), (5), (6) and (7) of section 5 of the *Social Security Act 1991*; or
    - (ii) the person:
      - (B) is in receipt of a disability support pension within the meaning of the *Social Security Act 1991*; and
      - (C) lives with the adult.
- (6) For this section, a **relevant interest in land** is:

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- (a) a lease of land in Australia (including a renewal or extension of such a lease) as described in paragraph 104-115(1)(b) of the *Income Tax Assessment Act 1997*; or
- (b) a company title interest (within the meaning of Part X of the *Income Tax Assessment Act 1936*) in land in Australia.

**29E Income test**

A person satisfies the income test at the time of entering into a loan agreement if:

- (a) where there is more than one borrower under the loan agreement—the combined taxable income (within the meaning of the *Income Tax Assessment Act 1997*) of the borrowers in the preceding income year did not exceed \$200,000; or
- (b) otherwise—the taxable income of the person (within the meaning of the *Income Tax Assessment Act 1997*) in the preceding income year did not exceed \$125,000.

Note: Under paragraph 29C(2)(b), an eligible loan may not have more than two borrowers under the loan agreement.

**29F Price cap**

- (1) For the purposes of paragraph 29C(2)(g), for a loan that is not subject to a New Home Guarantee, the price cap for the area in which a residential property is located is the amount set out in the following table.

Price Cap for an area		
Item	Area	Price cap
1	New South Wales—capital city and regional centre	\$900,000
2	New South Wales—other	\$750,000
3	Victoria—capital city and regional centre	\$800,000
4	Victoria—other	\$650,000
5	Queensland—capital city and regional centre	\$700,000
6	Queensland—other	\$550,000
7	Western Australia—capital city	\$600,000
8	Western Australia—other	\$450,000
9	South Australia—capital city	\$600,000
10	South Australia—other	\$450,000
11	Tasmania—capital city	\$600,000
12	Tasmania—other	\$450,000
13	Australian Capital Territory	\$750,000
14	Northern Territory	\$600,000
15	Jervis Bay Territory and Norfolk Island	\$550,000
16	Christmas Island and Cocos (Keeling) Islands	\$400,000

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(2A) For the purposes of paragraph 29C(2)(g), for a loan that is subject to a New Home Guarantee, the price cap for the area in which a residential property is located is the amount set out in the following table.

<b>Price Cap for an area</b>		
<b>Item</b>	<b>Area</b>	<b>Price cap</b>
1	New South Wales—capital city and regional centre	\$950,000
2	New South Wales—other	\$600,000
3	Victoria—capital city and regional centre	\$850,000
4	Victoria—other	\$550,000
5	Queensland—capital city and regional centre	\$650,000
6	Queensland—other	\$500,000
7	Western Australia—capital city	\$550,000
8	Western Australia—other	\$400,000
9	South Australia—capital city	\$550,000
10	South Australia—other	\$400,000
11	Tasmania—capital city	\$550,000
12	Tasmania—other	\$400,000
13	Australian Capital Territory	\$600,000
14	Northern Territory	\$550,000
15	Jervis Bay Territory and Norfolk Island	\$600,000
16	Christmas Island and Cocos (Keeling) Islands	\$400,000

**29G NHFIC may rely on information**

The NHFIC may rely on information supplied by an eligible lender, a borrower, or a third party, that has a relevant role in the issue and administration of a guarantee under this Part.



## **Division 2—Requirements for guarantees**

### **29H Form of guarantee**

#### *When guarantee becomes payable*

- (1) A guarantee issued by the NHFIC may only cover a payment where there is a balance owing on the guaranteed loan following the application of the proceeds of sale by the lender that was as a consequence of the default by the borrower under the terms of the loan contract.

#### *Limit on amount of guarantee*

- (2) Where subsection (1) applies, the amount payable under a guarantee issued by NHFIC is an amount equal to the lesser of:
- (a) the money owed to the lender under the loan agreement after the proceeds of the sale of the residential property that is the subject of the loan have been applied; and
  - (b) the amount worked out using the following formula:

$$A - B$$

where:

*A* is 20 per cent of the value of the residential property that is the subject of the eligible loan.

*B* is the deposit paid by the borrower or borrowers under the loan agreement.

#### *Cessation of guarantee*

- (3) Subject to subsection (4), the terms of a guarantee issued by the NHFIC under this Part must provide for the guarantee to cease when the balance of the loan becomes less than 80 per cent of the value of the residential property.
- (4) However, subsection (3) does not require the guarantee to cease where the proceeds of the sale by the lender that was as a consequence of default by the borrower are applied against the loan resulting in the balance of the loan being 80 per cent or less than the value of the residential property.
- (5) The terms of a guarantee issued by the NHFIC under this Part must provide for the guarantee to cease if:
- (a) the residential property the subject of the loan is used other than as an owner-occupied premises, unless paragraphs 29K(3)(a), (b), (c) and (d) apply in relation to the loan and the property; or
  - (b) the person:

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- (i) is an eligible single parent as a result of sub-paragraph 29D(3)(a)(ii)(A) or an eligible single legal guardian as a result of sub-sub-paragraph 29D(3A)(a)(ii)(A); and
- (ii) more than 4 weeks from when they became the registered owner of the property that was purchased with the loan, still holds a freehold interest in other real property in Australia.

### **29I First home guarantees**

#### *Limit on guarantees in a financial year*

- (1) For each financial year, the NHFIC must not issue more than the number of guarantees worked out under subsection (2).
- (2) The limit on the number of guarantees for a financial year is the sum of:
  - (a) 35,000; and
  - (b) the number of unissued guarantees from the previous financial year determined by the Minister under subsection (3).
- (3) The Minister may determine, in a written notice given to the NHFIC, that any unissued guarantees covered by subsection (5) in a financial year may be issued in the following financial year.
- (4) The power in subsection (3) applies to unissued guarantees from the 2019-20 financial year.
- (5) For subsection (3), the unissued guarantees in a financial year are the number of unissued guarantees from the limit set out in paragraph (2)(a).
- (6) In making a determination under subsection (3), the Minister must take into account the performance of the First Home Guarantee, and any unique circumstances influencing the uptake of guarantees under the First Home Guarantee.
- (7) The total number of guarantees issued to major banks in the 2021-22 financial year or an earlier financial year must not exceed:
  - (a) 17,500; and
  - (b) if a determination has been made under subsection (3)—50 per cent of the guarantees covered by that determination.

#### *Additional guarantees for the 2021-22 financial year*

- (7A) Despite subsections (2) and (7), for the 2021-22 financial year:
  - (a) the limit on the number of guarantees for that year is 14,651; and
  - (b) the total number of guarantees issued to major banks for that year must not exceed 7,325.

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*The NHFIC must notify Minister*

- (8) On the 100<sup>th</sup> day after the end of a financial year (or as otherwise directed by the Minister in writing), the NHFIC must notify the Minister, in writing, of the number of guarantees that were unissued in the financial year.
- (9) The notice under subsection (8) must include a detailed breakdown of the unissued guarantees as assessed at the time of the notice, including:
  - (a) the number that were unissued; and
  - (b) whether the unissued guarantees related to a major bank or other eligible lender; and
  - (c) whether the unissued guarantees are reserved, or lapsed or expired; and
  - (d) any other information requested in writing by the Minister.

*Counting of guarantees*

- (10) For the purposes of this section:
  - (a) subject to subsection (11), a guarantee is issued in the financial year during which its issue is approved by the NHFIC, even if the arrangement relating to the guarantee is entered into in a later financial year; and
  - (b) a guarantee issued in relation to a loan that satisfies subsection 29C(4) is disregarded.
- (11) Paragraph (10)(a) does not apply to unissued guarantees that are the subject of a determination under subsection (3).

*Guarantees may not be rolled over other than under subsection (3)*

- (12) To avoid doubt, unissued guarantees from a financial year may not be rolled over to a future financial year, other than as determined by the Minister under subsection (3).

## **29IA New Home Guarantees**

*Additional guarantees for the 2020-21 financial year*

- (1) In addition to the guarantees that the NHFIC may issue under section 29I, 29IB or 29IBA, the NHFIC may issue up to an additional 10,000 guarantees (***New Home Guarantees***) in the 2020-21 financial year, in relation to loans that meet the requirements of subsection (3) (as the case requires).
- (2) The total number of New Home Guarantees issued to major banks in the 2020-21 financial year must not exceed 5,000.

*Additional guarantees for the 2021-22 financial year*

- (2A) In addition to the guarantees that the NHFIC may issue under:
  - (a) section 29I or 29IB; or
  - (b) subsections (1) or (4) (***the earlier guarantees***);

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the NHFIC may issue up to an additional 10,000 guarantees (also *New Home Guarantees*) in the 2021-22 financial year, in relation to loans that meet the requirements of subsection (3) (as the case requires).

- (2B) The total number of New Home Guarantees issued to major banks in the 2021-22 financial year must not exceed:
- (a) 5,000; and
  - (b) if a determination has been made under subsection (4)—50 per cent of the guarantees covered by that determination.

### *Requirements for New Home Guarantees*

- (3) For subsection (1), the following requirements (as relevant) must be satisfied at the time the loan agreement is entered into:
- (a) the loan relates to the building or purchase of a newly built dwelling; and
  - (b) where the loan relates to the purchase of an interest in land and the construction of a newly built dwelling on the land:
    - (i) if it is more than 90 days after the eligible lender gave notice of approval by the NHFIC for the issue of a guarantee—the borrower or borrowers have entered into a construction contract; and
    - (ii) if it is more than 12 months after the date the construction contract was entered into—the construction of the dwelling has commenced; and
    - (iii) if it is more than 24 months after construction commenced—construction of the dwelling has been completed.
  - (c) where the loan relates to the purchase of a newly built dwelling that is off-the-plan:
    - (i) if it is more than 90 days after the eligible lender gave notice of approval by the NHFIC for the issue of a guarantee—the borrower or borrowers have entered into a contract of sale; and
    - (ii) if construction of the dwelling had not commenced on or before the date that the contract of sale was entered into (the contract date), and it is more than 12 months after the contract date—construction of the dwelling has commenced; and
    - (iii) if subparagraph (ii) applies, and it is more than 24 months after construction commenced—construction of the dwelling has been completed; and
    - (iv) if construction of the dwelling commenced on or before the contract date, and it is more than 24 months after the contract date—construction of the dwelling has been completed.

Note 1: The requirements in subsection (3) relate to the issue of a New Home Guarantee by the NHFIC. These requirements (as relevant) must be satisfied at the time the loan agreement is entered into and the New Home Guarantee is issued. Each requirement must only be satisfied to the extent that it applies in a particular case. The requirements do not affect the validity of a New Home Guarantee once issued (for example, if a requirement that had not arisen before entering into a loan agreement fails to be satisfied after the guarantee is issued).

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Note 2: Guarantees may also be issued under section 29I for loans that meet the requirements of paragraph (a) and paragraph (b) or (c) (see subsections (14) and (15)). However, New Home Guarantees are subject to a different price cap (see subsection 29F(2A)).

*Roll-over to 2021-22 financial year*

- (4) The Minister may determine, in a written notice given to the NHFIC, that any unissued New Home Guarantees in the 2020-21 financial year, other than those to which subsection (5) applies, may be issued in the 2021-22 financial year.
- (5) This subsection applies to guarantees that have been approved by the NHFIC relating to loans where, at the relevant time, all relevant requirements in paragraphs (3)(b) and (c) have been satisfied.
- (6) In making a determination under subsection (4), the Minister must take into account the performance of the New Home Guarantee, and any unique circumstances influencing the uptake of New Home Guarantees.

*The NHFIC must notify Minister*

- (8) On the 100<sup>th</sup> day after the end of the 2020-21 financial year (or as otherwise directed by the Minister in writing), the NHFIC must notify the Minister, in writing, of the number of New Home Guarantees that were unissued in the financial year.
- (9) The notice under subsection (8) must include a detailed breakdown of the unissued New Home Guarantees as assessed at the time of the notice, including:
  - (a) the number that were unissued; and
  - (b) whether the unissued guarantees related to a major bank or other eligible lender; and
  - (c) whether the unissued guarantees are reserved, or lapsed or expired; and
  - (d) the details of any guarantees to which subsection (5) applies; and
  - (e) any other information requested in writing by the Minister.

*Counting of New Home Guarantees*

- (10) For the purposes of this section:
  - (a) subject to subsection (11), a New Home Guarantee is issued in the financial year during which its issue is approved by the NHFIC, even if the arrangement relating to the guarantee is entered into in a later financial year; and
  - (b) a New Home Guarantee issued in relation to a loan that satisfies subsection 29C(4) is disregarded.
- (11) Paragraph (10)(a) does not apply to unissued guarantees that are the subject of a determination under subsection (4).

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*Guarantees may not be rolled over other than under subsection (4)*

- (12) To avoid doubt, unissued New Home Guarantees from the 2020-21 financial year may not be rolled over to the 2021-22 financial year, other than as determined by the Minister under subsection (4)
- (12A) To avoid doubt, unissued New Home Guarantees from the 2021-22 financial year may not be rolled over to the 2022-23 financial year.

*New Home Guarantees cannot be issued after the 2021-22 financial year*

- (13) The NHFIC must not issue any New Home Guarantees after the 2021-22 financial year.

### 29IB Family Home Guarantees

*Additional guarantees for each of the financial years 2022-23 to 2024-25*

- (1) In addition to the guarantees that the NHFIC may issue under section 29I, 29IA or 29IBA, the NHFIC may issue up to an additional 5,000 guarantees (**Family Home Guarantees**) for each of the 2022-23, 2023-24 and 2024-25 financial years.

*Counting of Family Home Guarantees*

- (2) For the purposes of this section:
- (a) a Family Home Guarantee is issued in the financial year during which its issue is approved by the NHFIC, even if the arrangement relating to the guarantee is entered into in a later financial year; and
  - (b) a Family Home Guarantee issued in relation to a loan that satisfies subsection 29C(4) is disregarded.

### 29IBA Regional First Home Buyer Guarantees

*Additional guarantees for the 2022-23 financial year*

- (1) In addition to the guarantees that the NHFIC may issue under section 29I, 29IA or 29IB, the NHFIC may issue up to 10,000 additional guarantees (**Regional First Home Buyer Guarantees**) for the 2022-23 financial year.

*Additional guarantees for the 2023-24 and 2024-25 financial years*

- (2) In addition to the guarantees that the NHFIC may issue under section 29I, 29IA or 29IB, the NHFIC may issue additional guarantees (**Regional First Home Buyer Guarantees**) for each of the 2023-24 and 2024-25 financial years.
- (3) The total number of additional guarantees that may be issued for a financial year under subsection (2) must not exceed the sum of the following:
- (a) 10,000;
  - (b) the number determined under paragraph (4)(b) for the financial year.

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*Roll over of guarantees to next financial year*

- (4) If a number of Regional First Home Buyer Guarantees that could have been issued for the 2022-23 financial year under subsection (1), or for the 2023-24 financial year under subsection (2), were not issued under that subsection for that financial year:
- (a) the NHFIC must notify the Minister of the number of the guarantees for that financial year that were not issued; and
  - (b) the Minister may determine, by written notice given to the NHFIC, the number of those guarantees that may be issued for the next financial year.

Note: A determination cannot be made in relation to guarantees not issued for the 2024-25 financial year.

- (5) In making a determination under paragraph (4)(b), the Minister must take into account the performance of the Regional First Home Buyer Guarantee, and any unique circumstances influencing the uptake of Regional First Home Buyer Guarantees.
- (6) Notification for the purposes of paragraph (4)(a):
- (a) must be given, in writing, on the 100<sup>th</sup> day after the end of the financial year (or as otherwise directed by the Minister in writing); and
  - (b) must include a detailed breakdown of the guarantees that were not issued for the financial year, as assessed at the time of giving the notice, including:
    - (i) the number of guarantees that were not issued; and
    - (ii) the respective numbers of those guarantees that are reserved, lapsed and expired; and
    - (iii) any other information requested in writing by the Minister.

*Counting of Regional First Home Buyer Guarantees*

- (7) For the purposes of this section:
- (a) subject to subsection (8), a Regional First Home Buyer Guarantee is issued for the financial year during which its issue is approved by the NHFIC, even if the arrangement relating to the guarantee is entered into in a later financial year; and
  - (b) a Regional First Home Buyer Guarantee issued in relation to a loan that satisfies subsection 29C(4) is disregarded.
- (8) Paragraph (7)(a) does not apply to guarantees that are the subject of a determination under paragraph (4)(b).

**29IC Interaction between sections 29I, 29IA, 29IB and 29IBA**

- (1) None of sections 29I, 29IA, 29IB and 29IBA (the *limiting sections*) limits the types of guarantees that may be issued under another limiting section.

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- (2) If a guarantee could, taking account of the eligible lender's credit assessment and the limits on numbers for the relevant limiting sections, be issued under one or more of the limiting sections, the following rules apply:
- (a) if it could be issued under section 29IA, 29IB or 29IBA:
    - (i) it may not be issued under section 29I; and
    - (ii) if it could be issued under more than one of sections 29IA, 29IB and 29IBA—the NHFIC may determine which of those sections it is to be issued under;
  - (b) if it could not be issued under any of sections 29IA, 29IB and 29IBA—it may be issued under section 29I.

### **29J NHFIC must not charge fees**

The NHFIC must not charge fees for the issue of a guarantee under this Part.



## **Division 3—Other matters**

### **29JA Scheme Rules**

- (1) The NHFIC must, in writing, make rules and policies (the *scheme rules*) for the operation of the Home Guarantee Scheme, including separately providing for the operation of:
  - (a) the First Home Guarantee; and
  - (b) the New Home Guarantee; and
  - (c) the Family Home Guarantee; and
  - (d) the Regional First Home Buyer Guarantee.
- (2) The NHFIC must consult the Minister before making or amending the scheme rules.
- (3) For the purposes of consulting the Minister, the NHFIC must provide a copy of the proposed scheme rules to the Minister at least 15 business days (or a shorter period notified by the Minister to the NHFIC in writing) before the earlier of the rules:
  - (a) coming into effect; or
  - (b) being publicly released.
- (4) If the NHFIC fails to consult the Minister before making or amending the scheme rules in accordance with subsections (2) and (3), the Board of the NHFIC must, within 30 days following the period set out in subsection (3), provide a written explanation to the Minister setting out the reasons for the failure to consult with the Minister.

Note: The criteria and processes referred to in paragraph 29C(1)(b) include the scheme rules.

- (5) On making an amendment to the scheme rules, the NHFIC must provide a copy of the scheme rules as amended to the Minister no later than the day the first of the amendments come into effect.

### **29K Principles for the operation of the Home Guarantee Scheme**

- (1) The NHFIC must operate the Home Guarantee Scheme in a manner that seeks to:
  - (a) maximise the integrity of the Home Guarantee Scheme; and
  - (aa) ensure that a proportion of guarantees issued under the First Home Guarantee in the 2022-23 financial year or a later financial year are issued to eligible lenders that are not major banks; and
  - (b) subject to subsection (3), prevent residential properties from being used other than as owner-occupied residences; and
  - (c) encourage and incentivise borrowers to repay loans as soon as possible; and
  - (d) ensure that eligible home buyers, eligible single parents and eligible single legal guardians have used the maximum amount of their savings as a deposit, subject to the credit policies of their eligible lenders; and

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- (e) minimise the quantum of payouts under guarantees issued under the Home Guarantee Scheme, in accordance with industry best practice (including practices applied to loans with parental guarantees); and
  - (f) monitor the status of guaranteed loans to identify when there is a significant likelihood of a borrower defaulting on their obligations under a loan; and
  - (g) minimise the cost of guaranteed loans to borrowers.
- (2) Subsection (1) does not limit the powers of the NHFIC to administer the Home Guarantee Scheme in a responsible and commercial manner, consistently with the requirements of this Part.
- (3) Despite paragraph (1)(b), the NHFIC must not seek to prevent a particular residential property from being used other than as an owner-occupied residence where:
  - (a) a loan that was guaranteed under the Home Guarantee Scheme was used to purchase the property; and
  - (b) after the time the loan agreement was entered into, the property had been used as an owner-occupied residence; and
  - (c) the owner-occupier, or one of the owner-occupiers:
    - (i) has, after having been employed by the same employer for at least 12 months, been required, by that employer, to relocate; or
    - (ii) suffers from an illness that the NHFIC considers to be serious; or
    - (iii) has carer responsibilities for a person who suffers from such an illness; and
  - (d) as a result, the NHFIC is satisfied that it is impracticable for the property to continue to be used as an owner-occupied residence.

## 29L Reporting

- (1) As soon as practicable after the end of each successive 6 month period commencing on 1 January 2020, the NHFIC must report to the Minister on:
  - (a) the status of each guarantee issued under the Home Guarantee Scheme; and
  - (b) the operating costs of the Home Guarantee Scheme; and
  - (ba) the NHFIC's operating expenses for the Home Guarantee Scheme, including itemised details of expenditure on:
    - (i) its directors; and
    - (ii) its employees; and
    - (iii) its consultants; and
    - (iv) information technology systems; and
    - (v) other significant expenditure; and
  - (bb) the performance of loans in relation to which a guarantee has been issued, including information on:
    - (i) the number of loans in arrears, and the amount of those arrears; and
    - (ii) repayment progress; and
    - (iii) applicable interest rates; and

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- (c) the total value of guarantees issued under the Home Guarantee Scheme;  
and
  - (ca) a summary of the data and information collected by the NHFIC under subsection (3) in relation to the 6 month period; and
  - (d) any other information requested by the Minister.
- (2) A report under subsection (1) must separately include the matters listed in paragraphs (a), (b), (ba), (bb), (c) and (ca) in relation to First Home Guarantees, New Home Guarantees, Family Home Guarantees and Regional First Home Buyer Guarantees.
- (3) The NHFIC must collect data and information that would be of assistance in an evaluation of whether the Home Guarantee Scheme is effective in facilitating home buyers who are able to benefit from the scheme entering into the housing market sooner, including data and information about:
  - (a) changes in the behaviour of such home buyers induced by the scheme; and
  - (b) the effectiveness of the scheme in relation to different types of buyers.

## Part 5B—Research into housing affordability in Australia

### Research into housing affordability in Australia

The NHFIC's research function will support the monitoring of housing demand, supply and affordability in Australia. It will do this by highlighting current and potential future gaps between housing supply and demand, while also complementing existing housing-related research.

### 29M Requirements relating to research

The NHFIC must:

- (a) conduct comprehensive research into housing demand, supply and affordability in Australia, including current and potential future gaps between housing supply and demand; and
- (b) complement existing research, reflecting on the adequacy of construction rates and land supply to meet future needs.

### 29N Performance of research function

In undertaking research under this Part, the NHFIC may do any of the following:

- (a) undertake research on its own initiative;
- (b) undertake specific research requested by the Minister;
- (c) publish results of its research;
- (d) liaise with relevant stakeholders, including State and Territory bodies, Federal and State government agencies, research institutions, market participants and the housing sector.

## **Part 6—General governance matters**

### **30 Reasons for decisions**

- (1) This section applies when an entity has made a financing proposal to the NHFIC.
- (2) Where it is practicable to do so, the NHFIC should provide reasons to the entity for making a financing decision, or a decision not to provide finance, in respect of the proposal.

### **31 Good corporate citizenship**

- (1) The NHFIC must have regard to Australian best practice government governance principles, and Australian best practice corporate governance for Commercial Financiers, when performing its functions, including developing and annually reviewing policies with regard to:
  - (a) environmental issues; and
  - (b) social issues; and
  - (c) governance issues.
- (2) The NHFIC must ensure as far as practicable that financing decisions, and decisions not to provide finance, are made in a timely way so as to minimise costs to the project proponent.

### **32 Transparency of operations**

- (1) The NHFIC must publish the following guidance on its website:
  - (a) the format in which a financing proposal under the AHBA or NHIF is to be provided to the NHFIC;
  - (b) the process the NHFIC will follow when making financing decisions;
  - (c) any other matters the NHFIC considers necessary.
- (2) Within 6 months of making a financing decision under the NHIF, the NHFIC must publish the following information relating to the decision on the NHFIC's website, subject to commercial confidentiality:
  - (a) the name of the project proponent;
  - (b) the goods or services involved;
  - (c) the location of the project;
  - (d) the financing mechanism used;
  - (e) the amount of the financing mechanism.

### **33 Reputation**

The NHFIC must not act in a way that is likely to cause damage to the Australian Government's reputation, including its reputation in Australian and international financial markets.

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### 34 Approval needed if liabilities to exceed \$7.5 billion

- (1) The Board must not enter into a transaction which would result in the sum of:
  - (a) the total guaranteed liabilities of the NHFIC; and
  - (b) the current value of the AHBA reserve;exceeding the cap.
- (2) In this section:

*cap* means \$7.5 billion.

*total guaranteed liabilities of the NHFIC*, at a particular time, means the sum of the current values of all amounts that are, or can as a consequence of current liabilities of the NHFIC (other than guarantee liabilities) be expected to be:

- (a) payable to a person other than the Commonwealth; and
- (b) guaranteed by the Commonwealth under section 51 of the Act.

### 35 Restriction on issuing bonds in offshore markets

The NHFIC must not issue bonds in an offshore market before 1 July 2023.

## **Part 7—Application, savings and transitional provisions**

### **Division 1—Amendments made by the National Housing Finance and Investment Corporation Investment Mandate Amendment (Home Guarantee Scheme) Direction 2022**

#### **36 Application of amendments**

The amendments made by Part 2 of Schedule 1 to the *National Housing Finance and Investment Corporation Investment Mandate Amendment (Home Guarantee Scheme) Direction 2022* apply to the issue of guarantees for the 2022-23 financial year and later financial years.

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**Division 2—Amendments made by the National Housing Finance and  
Investment Corporation Investment Mandate Amendment  
(Review Measures) Direction 2022**

**37 Application of paragraph 29L(1)(ca)**

Paragraph 29L(1)(ca), as inserted by the *National Housing Finance and Investment Corporation Investment Mandate Amendment (Review Measures) Direction 2022*, applies to a report for a 6 month period commencing on or after 1 July 2022.



**Division 3—Amendments made by the National Housing Finance and  
Investment Corporation Investment Mandate Amendment  
(Price Cap Update) Direction 2022**

**38 Application of subsection 29F(1)**

Subsection 29F(1), as amended by the *National Housing Finance and Investment Corporation Investment Mandate Amendment (Price Cap Update) Direction 2022*, applies to financial years starting on or after 1 July 2022.

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**Division 4—Amendments made by the National Housing Finance and  
Investment Corporation Investment Mandate Amendment  
(Social and Affordable Housing) Direction 2022**

**39 Application of amendments**

The repeal of subsection 23A(2) of this *Direction made by the National Housing Finance and Investment Corporation Investment Mandate Amendment (Social and Affordable Housing) Direction 2022* applies in relation to periods of 3 months starting on or after 1 January 2023.

**Division 5—Amendments made by the National Housing Finance and  
Investment Corporation Investment Mandate Amendment  
(Enhancing the Home Guarantee Scheme) Direction 2023**

**40 Application of amendments**

- (1) The amendments made by Schedule 1 to the *National Housing Finance and Investment Corporation Investment Mandate Amendment (Enhancing the Home Guarantee Scheme) Direction 2023* apply to guarantees issued on or after the day that Schedule commences.
- (2) The amendments made by Schedule 2 to the *National Housing Finance and Investment Corporation Investment Mandate Amendment (Enhancing the Home Guarantee Scheme) Direction 2023* apply to guarantees issued on or after the day that Schedule commences.

## Endnotes

### Endnote 1—About the endnotes

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## Endnotes

### Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

### Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

### Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

### Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe how an amendment is to be made. If, despite the misdescription, the amendment can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and “(md not incorp)” is added to the amendment history.

## Endnote 2—Abbreviation key

**Endnote 2—Abbreviation key**

ad = added or inserted	orig = original
am = amended	par = paragraph(s)/subparagraph(s)
amdt = amendment	/sub-subparagraph(s)
c = clause(s)	pres = present
C[x] = Compilation No. x	prev = previous
Ch = Chapter(s)	(prev...) = previously
def = definition(s)	Pt = Part(s)
Dict = Dictionary	r = regulation(s)/rule(s)
disallowed = disallowed by Parliament	reloc = relocated
Div = Division(s)	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md not incorp) = misdescribed amendment	SLI = Select Legislative Instrument
cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
o = order(s)	<u>underlining</u> = whole or part not commenced or to be commenced
Ord = Ordinance	

## Endnotes

### Endnote 3—Legislation history

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### Endnote 3—Legislation history

Name	Registration	Commencement	Application, saving and transitional provisions
National Housing Finance and Investment Corporation Investment Mandate Direction 2018	3 Jul 2018 (F2018L00994)	4 July 2018 (s 2)	—
National Housing Finance and Investment Corporation Investment Mandate Amendment (First Home Loan Deposit Scheme) Direction 2019	11 Nov 2019 (F2019L01436)	12 Nov 2019 (s 2)	—
National Housing Finance and Investment Corporation Investment Mandate Amendment (New Home Guarantee) Direction 2020	6 Oct 2020 (F2020L01285)	6 Oct 2020, immediately after 7:32pm Australian Eastern Daylight Time (s 2)	—
National Housing Finance and Investment Corporation Investment Mandate Amendment (Family Home Guarantee) Direction 2021	1 July 2021 (F2021L00912)	1 July 2021 (s 2)	—
National Housing Finance and Investment Corporation Investment Mandate Amendment (More Opportunities) Direction 2022	20 Jan 2022 (F2022L00054)	21 Jan 2022 (s 2)	—
National Housing Finance and Investment Corporation Investment Mandate Amendment (Home Guarantee Scheme) Direction 2022	12 April 2022 (F2022L00593)	1 July 2022 (s 2)	—

## Endnote 3—Legislation history

<b>Name</b>	<b>Registration</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
National Housing Finance and Investment Corporation Investment Mandate Amendment (Review Measures) Direction 2022	12 April 2022 (F2022L00592)	1 July 2022 (s 2)	—
National Housing Finance and Investment Corporation Investment Mandate Amendment (Price Cap Update) Direction 2022	11 April 2022 (F2022L00585)	1 July 2022 (s 2)	—
National Housing Finance and Investment Corporation Investment Mandate Amendment (Regional First Home Buyer Guarantee) Direction 2022	30 September 2022 (F2022L01290)	1 October 2022 (s 2)	—
National Housing Finance and Investment Corporation Investment Mandate Amendment (Social and Affordable Housing) Direction 2022	23 November 2022 (F2022L01501)	24 November 2022 (s 2)	—
National Housing Finance and Investment Corporation Investment Mandate Amendment (Removal of Limit on Major Bank Guarantees) Direction 2023	14 June 2023 (F2023L00790)	15 June 2023 (s 2)	—
National Housing Finance and Investment Corporation Investment Mandate Amendment (Liability Cap Update) Direction 2023	7 June 2023 (F2023L00740)	1 July 2023 (s 2)	—

## Endnotes

### Endnote 3—Legislation history

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Name	Registration	Commencement	Application, saving and transitional provisions
National Housing Finance and Investment Corporation Investment Mandate Amendment (Enhancing the Home Guarantee Scheme) Direction 2023	28 June 2023 (F2023L00882)	1 July 2023 (s 2)	—
National Housing Finance and Investment Corporation Investment Mandate Amendment (National Housing Accord—Preparatory Work) Direction 2023	4 September 2023 (F2023L01186)	5 September 2023 (s 2)	—



## Endnote 4—Amendment history

Provision affected	How affected
<b>Part 1</b>	
s 2	rep LA s 48D
s 4	am F2019L01436; F2020L01285; F2021L00912; F2022L00593; F2022L01290; F2022L01501; F2023L00882
s 4A	ad F2022L01290
<b>Part 2</b>	
s 8A	ad F2019L01436 am F2022L00593; F2023L00882
s 8B	ad F2019L01436
s 8C	ad F2023L01186
s 9	am F2019L01436; F2023L01186
s 10	rs F2019L01436 am F2022L00593; F2023L00882
<b>Part 3</b>	
s 19	rs F2022L00592
<b>Part 4</b>	
Box after heading	rs F2022L01501
s 21A	ad F2022L01501
s 22	am F2022L01501
s 22A	ad F2022L01501
s 23A	ad F2022L00592 am F2022L01501
s 24	am F2022L01501
s 25	am F2022L01501
s 26	am F2022L01501
s 28A	ad F2022L01501
<b>Part 5A</b>	
Part 5A	ad F2019L01436 am F2020L01285; F2021L00912; F2022L00593; F2023L00882
<b>Division 1 (Part 5A)</b>	
Box after heading	ad F2019L01436 am F2021L00912; F2022L00593; F2022L01290; F2023L00882
Division 1	ad F2019L01436
s 29A	ad F2019L01436
s 29B	ad F2019L01436 am F2021L00912; F2022L00593; F2022L01290

## Endnotes

### Endnote 3—Legislation history

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Provision affected	How affected
s 29C	ad F2019L01436; am F2020L01285; F2021L00912; F2022L01290; F2023L00882
s 29D	ad F2019L01436 am F2020L01285; F2021L00912; F2023L00882
s 29E	ad F2019L01436
s 29F	ad F2019L01436 am F2020L01285; F2021L00912; F2022L01290; F2023L00882 rs F2022L00585
s 29G	ad F2019L01436
<b>Division 2 (Part 5A)</b>	
Division 2	ad F2019L01436
s 29H	ad F2019L01436 am F2023L00882
s 29I	ad F2019L01436 rs F2020L01285 ad F2022L00054 am F2022L00593 am F2023L00790; F2023L00882
s 29IA	ad F2020L01285 am F2021L00912; F2022L01290
s 29IB	ad F2021L00912 am F2022L00593; F2022L01290 rs F2022L00593
s 29IBA	ad F2022L01290
s 29IC	ad F2021L00912 rs F2022L01290
s 29J	ad F2019L01436
<b>Division 3 (Part 5A)</b>	
Division 3	ad F2019L01436
s 29JA	ad F2020L01285 am F2021L00912; F2022L00593; F2022L01290; F2023L00882
s 29K	ad F2019L01436 am F2020L01285; F2021L00912; F2022L00593; F2022L01290; F2023L00790; F2023L00882
s 29L	ad F2019L01436; F2022L00592 am F2020L01285; F2021L00912; F2022L00593; F2022L00592; F2022L01290; F2023L00882
<b>Part 5B</b>	
Part 5B	ad F2019L01436
s 29M	ad F2019L01436

## Endnote 4—Amendment history

Provision affected	How affected
s 29N	ad F2019L01436
<b>Part 6</b>	
s 34	am F2019L01436; F2020L01285; F2022L00592; F2023L00740 rs F2022L00054
<b>Part 7</b>	
Part 7	ad F2022L00593
Division 1	ad F2022L00593
s 36	ad F2022L00593
Division 2	ad F2022L00592
s 37	ad F2022L00592
Division 3	ad F2022L00585
s 38	ad F2022L00585
Division 4	ad F2022L01501
s 39	ad F2022L01501
Division 5	ad F2023L00882
s 40	ad F2023L00882