April 2020

National Rental Affordability Scheme Regulations quick guide

The below tables provide a quick comparison between the sections in National Rental Affordability Scheme Regulations 2008 (2008 Regulations) and the National Rental Affordability Scheme Regulation 2020 (2020 Regulations).

There are two tables:
1) links the 2008 Regulations with relevant sections in the 2020 Regulations and
2) links the 2020 Regulations with relevant sections in the 2008 Regulations.

2008 Regulations to 2020 Regulations

| **2008 Regulations** | **2020 Regulations** | **Notes** |
| --- | --- | --- |
| 1 | 1 | Name |
| - | 2 | Commencement |
| 3 | 3 | Authority |
| 4 | 5 | Definitions |
| 5 | - | Meaning of rental dwelling |
| 6 | - | Purpose of ‘Part 2 – Application’ |
| 7 | - | Call for applications  |
| 8 | - | Form of application |
| 9 | - | Time for dealing with applications |
| 10 | - | Purpose of ‘Part 3 – Allocations’ |
| 11 | - | Assessment criteria for allocations |
| 12 | - | Assessment of applications |
| 13 | - | Offers of allocation |
| 14 | - | Allocations |
| 15 | - | Notification to approved participants (APs) |
| 16(1B)16(1C)16(1D)16(1)16(2)16(2A)16(3)16(4) and 16(5)16(5A) and 16(6)16(6A) and 16(6B)16(6C) and 16(12)16(11A) | 8121027(2)(c) and 42(1) 1413(5)15(1)36(1)(a)37(1)39(1)39(3) | Conditions of allocationInitial status of dwellingMaximum rentVacanciesLodgement of statements of complianceCompliance with relevant lawsFalse and misleading documentsCompliance with special conditionsMeaning of market rent valuationMarket rent valuationsExtension of time for giving valuationsNotice and effect of extensions  |
| 17(1)17(2)17(2A) and 17(2B)17(2C)17(2D)17(2E) and 17(2F)17(3) | 42(1)42(3)42(4)42(3)(b)42(4)42(5)43 | Statement of complianceStatement of compliance (continued) |
| 18(1A)18(1) and 18(2) | 36 and 3837 | Determining market value rent |
| 19 | 11 and 41 | Eligible tenants |
| 20 | 20 | Transfer of allocation to another rental dwelling |
| 21 | 21 | Transfer of allocation to another person or entity |
| 22 | 16, 23 | Revocation of allocation other than provisional allocation |
| 22A | 23 | Revocation of provisional allocation |
| 22B | 23 | Matters that may be taken into account by Secretary in deciding to revoke an allocation |
| 22BA | 24 and 30 | Individual breach |
| 22BB | 25, 30 and 31 | Serious breach |
| 22BC | 26, 30 and 31 | Disqualifying breach |
| 22BD(2) | 27(2) | APs code of conduct |
| 22BE | 28 | Secretary may determine breach on own initiative or on request by an investor |
| 22BF | 30 | Secretary must notify proposed determination |
| 22BG | 32 | Transfer or revocation because of breach |
| 22BH(1)22BH(2)22BH(3)22BH(4)22BH(5)22BH(6) 22BH(7)22BH(8) | 57585958(1) and 59(1)606161(2)58(2) and 59(2) | Secretary may redirect incentive |
| 22BJ | 35 | Statement of compliance if allocation is transferred |
| 22C | 33 | Contracts do not prevent transfers |
| 22D | 34 | Obligations of approved participants when allocations are transferred |
| 23 | 19 | Variation of certain conditions |
| 23A | 18 and 19 | Applications to vary conditions of reservation—general |
| 23B | 18 and 19 | Application to vary dwelling’s location or style |
| 23C | - | Application to vary dwelling’s agreed rental availability date |
| 23D | 19 | Decisions on applications |
| 24 | - | Purpose of incentives |
| 25 | 50 | Entitlement to receive incentives |
| 25A | - | Additional eligibility in 2012–13 and 2013–14 NRAS years |
| 26 | 52 | Full incentive amount for standard dwelling |
| 27 | - | Full incentive amount for subsidiary dwelling |
| 28 | 51 | Amount of incentive and reductions from full incentive amount |
| 28A | 55 | Elections to receive incentive as tax offset certificate |
| 28AA | 55 | Effect of election agreed to by Secretary |
| 29 | 54 | Receipt and form of incentives |
| 30 | 56 | Variation of incentive amount |
| 30A | 63 | Approved participant’s obligations to investors |
| 30B | 64 | Obligation to pass on incentives or State or Territory contributions in timely manner |
| 30C | 65 | Incentives or State or Territory contributions not to be withheld or refused if investor fails or refuses to accept other services provided by approved participant |
| 30D | 66 | Incentives or State or Territory contributions not to be withheld or refused if bond not paid |
| 30E | 67 | Approved participant must give summary of code of conduct to investors |
| 31 | 49 | Record keeping |
| 32 | 69 | Sharing and use of information |
| 32A | 46 | Secretary may request other documents and information |
| 32B | 70 | Notice of end of allocation |
| 33 | 71 | Review by Administrative Appeals Tribunal (AAT) of decisions by Secretary |
| 34 | 73 | Application and transitional provisions — vacancy periods |
| 35 | 73 | Application and transitional provisions — variation of conditions of the reservation of an allocation |
| 36 | 73 | Amendments made by previous regulations |
| 37 | 73 | Amendments made by previous regulations |
| 38 | 73 | Amendments made by previous regulations |
| 40 | 73 | Amendments made by previous regulations |
| 41 | 73 and 78 | Operation of Subdivision C of Division 1A of Part 3 – Redirecting for certain earlier year transfers |
| 42 | 51 and 73 | Internal review of incentive amounts under regulation 28 |

2020 Regulations to 2008 Regulations

| **Regulations 2020** | **Regulations 2008** | **Notes**  |
| --- | --- | --- |
| 1 | 1 | Name |
| 2 | - | Commencement |
| 3 | 3 | Authority |
| 4 | - | Schedules |
| 5 | 4 | Definitions |
| 6 | - | No new allocations |
| 7 | - | General conditions |
| 8 | 16(1B) | Initial status of dwelling |
| 9 | - | Initial vacancy |
| 10 | 16(1D) | Other vacancies |
| 11 (and 41) | 19 | Eligible tenants |
| 12 | 16(1C) | Maximum rent |
| 1313(1)13(5) | 32A1716(2A) | Documents and information |
| 14 | 16(2) | Compliance with relevant laws |
| 15 | 16(3) | Compliance with special conditions |
| 16 | 22(2) | If allocation is revoked |
| 17 | - | Conditions of the reservation of existing provisional allocations |
| 18 | 23 | Varying or removing special conditions by agreement |
| 19 | 23 | Secretary may vary, remove or impose special conditions |
| 20 | 20 | Transfer to another dwelling |
| 21 | 21 | Transfer to another person on application by approved participant |
| 22 | New | Transfer of provisional allocation on Secretary’s own initiative |
| 23 | 22, 22A and 22B | Revocation on application by approved participant etc. |
| 24 | 22BA | Individual breach |
| 25 | 22BB | Serious breach |
| 26 | 22BC | Disqualifying breach |
| 27 | 22BD | Approved participants code of conduct |
| 28 | 22BE(1) | Secretary may determine breach on own initiative or on request by an investor |
| 29 | 22BE(2), 22BE(3) and 22BE(4)  | Transfer requests |
| 30 | 22BF | Requirements for determinations of breach |
| 31 | 22BB(2)(a) | Publishing notice of certain breaches |
| 32 | 22BG | Transfer or revocation because of breach |
| 33 | 22C | Legal arrangements or contracts do not prevent transfers |
| 34 | 22D | Obligations of approved participants when allocations are transferred |
| 35 | 22BJ | Statement of compliance if allocation is transferred |
| 36 | 16 and 18 | Meaning of market value rent |
| 37 | 16 and 18 | Valuations |
| 38 | 16 and 18 | Giving valuations |
| 39 | 16(6A), 16(6B) and 16(6C) | Secretary may extend time for giving valuations |
| 40 | - | Valuations – other matters  |
| 41 (and 11) | 19 | Eligible tenants |
| 42 | 17 | Statement of compliance required for each NRAS year |
| 43 | 17(3) | Contents of statement of compliance |
| 44 | New | Tenant consent form |
| 45 | New | Lease agreement |
| 46 | 32A | Secretary may request other documents and information |
| 47 | New | Changes to approved participant’s details |
| 48 | New | Changes relating to investors |
| 49 | 31 | Record keeping |
| 50 | 25 | Entitlement to incentives |
| 51 | 28 | Amount of incentive and reductions by Secretary |
| 52 | 26 | Full amount of incentive |
| 53 | New | Incentive amounts when approved participant changes |
| 54 | 29 | Form of incentive |
| 55 | 28A | Elections by endorsed charitable institutions |
| 56 | 30 | Variation of incentive amount |
| 57 | 22BH | Application of Division 3 – ‘Redirecting incentives’ |
| 58 | 22BH(2) | Incentive for year of transfer |
| 59 | 22BH(3) | Incentive for an earlier year |
| 60 | 22BH(5) | Meaning of redirects |
| 61 | 22BH(6) and 22BH(7) | Secretary must notify proposed redirection |
| 62 | New | Secretary must take interests of investors into account |
| 63 | 30A | Approved participant’s obligations to investors  |
| 64 | 30B | Obligation to pass on incentives or state and territory contributions in a timely manner |
| 65 | 30C | Incentives or State or Territory contributions not withheld if investor fails to accept other services |
| 66 | 30D | Incentives or State or Territory contributions not to be withheld if bond not paid |
| 67 | 30E | Approved participant must give summary of code of conduct to investors |
| 68 | New | Secretary may approve forms |
| 69 | 32 | Sharing and use of information |
| 70 | 32B | Notice of end of allocation |
| 71 | 33 | Review of decisions by AAT |
| 72 | New | When incentive cannot be redirected |
| 73 | New | Things done under the previous regulations |
| 74 | New | General conditions of allocations existing immediately before 1 April 2020 |
| 75 | New | Determination relating to maximum rent |
| 76 | New | Eligible tenants moving rental dwellings |
| 77 | New  | References to breaches etc. |
| 78 | New | Redirecting incentives for certain earlier transfers |
| 79 | New | Details of approved participants and investors  |