



# **Income Tax Assessment (Build to Rent Developments) Amendment (Expanding Affordability Requirements) Determination 2025**

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I, Jim Chalmers, Treasurer, make the following determination.

Dated 27 March 2025

Dr Jim Chalmers  
Treasurer

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## 1 Name

This instrument is the *Income Tax Assessment (Build to Rent Developments) Amendment (Expanding Affordability Requirements) Determination 2025*.

## 2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of the instrument	The day after this instrument is registered.	

Note: This table relates only to the provisions of this instrument as originally made.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

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

## 3 Authority

This instrument is made under the *Income Tax Assessment Act 1997*.

## 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

## Schedule 1—Amendments

### *Income Tax Assessment (Build to Rent Developments) Determination 2024*

#### **1 Section 4 (paragraph (c) of the definition of assessing event)**

At the end of the paragraph, add:

- ; (iii) an individual occupying the dwelling providing a notice under subsection 7(6).

#### **2 Section 4**

Insert:

*BTR owner*, in relation to a dwelling, means the owner of the dwelling that forms part of a build to rent development.

*lower-income dwelling* has the meaning given by subsection 7(1).

*moderate-income dwelling* has the meaning given by subsection 6(1).

#### **3 Section 5**

Repeal the section, substitute:

#### **5 Requirements for affordable dwellings**

- (1) Under subsection 43-153(3) of the Act, each of the following requirements for a dwelling to be an affordable dwelling are determined:
  - (a) the dwelling is either:
    - (i) a moderate-income dwelling; or
    - (ii) a lower-income dwelling;
  - (b) the dwelling is part of a build to rent development in which the number of dwellings that are lower-income dwellings is equal to or greater than:
    - (i) 2% of the number of the dwellings; or
    - (ii) if the number of dwellings worked out under subparagraph (i) is not a whole number—that number rounded down to the nearest whole number of dwellings;
  - (c) the dwelling is part of a build to rent development that satisfies subsection (2);
  - (d) if the dwelling is tenanted—each tenant of the dwelling was identified by an eligible community housing provider as a prospective tenant for the dwelling (having regard only to the requirements for dwellings in this instrument and any matter expressly advised to the provider by the BTR owner).
- (2) For the purposes of paragraph (1)(c) a build to rent development satisfies this subsection if the BTR owner engages an eligible community housing provider to assist the BTR owner to:
  - (a) identify prospective tenants for each affordable dwelling in the development; and

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- (b) ascertain, for each assessing event in relation to each affordable dwelling in the development, whether the dwelling satisfies the criteria in subsection 6(2) or 7(2) (whichever applies).
  - (3) The requirements in paragraphs (1)(c) and (d) do *not* apply to a dwelling if special circumstances exist in relation to the dwelling.

## **6 Meaning of moderate-income dwelling**

- (1) A dwelling is a *moderate-income dwelling* if:
  - (a) the dwelling satisfies the criteria set out in subsections (2) and (4); and
  - (b) the dwelling is not a lower-income dwelling.
- (2) A dwelling satisfies the criteria in this subsection if the dwelling is tenanted, or available to be tenanted, only by one or more of the following:
  - (a) an adult living alone whose taxable income, for the most recent income year, for which the Commissioner has given the adult a notice of assessment, ending before the dwelling's most recent assessing event, was less than 120% of average annual earnings;
  - (b) 2 or more adults living together whose combined taxable incomes, for the most recent income year, for which the Commissioner has given each adult a notice of assessment, ending before the dwelling's most recent assessing event, was less than 130% of average annual earnings;
  - (c) one adult living with one or more dependent children of the adult, where the adult's taxable income, for the most recent income year, for which the Commissioner has given the adult a notice of assessment, ending before the dwelling's most recent assessing event, was less than 140% of average annual earnings;
  - (d) 2 or more adults living with one or more dependent children of any of the adults, where the adults' combined taxable incomes for the most recent income year, for which the Commissioner has given each adult a notice of assessment, ending before the dwelling's most recent assessing event, was less than 140% of average annual earnings.
- (3) Despite subsection (2), if a dwelling no longer satisfies the criteria in that subsection only because of an event mentioned in subparagraph (c)(i) or (ii) of the definition of assessing event, the dwelling is taken to continue to satisfy the criteria until:
  - (a) if, immediately before the event, the dwelling was taken to satisfy the criteria in subsection (2) because of a previous application of this subsection—the day worked out under paragraph (b) for that previous application; or
  - (b) otherwise—the earlier of:
    - (i) the end of 12 months after the event; or
    - (ii) the end of the lease for the dwelling.
- (4) A dwelling satisfies the criteria in this subsection if the rent payable under a lease for the dwelling is 74.9% or less of the market value of the right to occupy the dwelling under the lease.

## 7 Meaning of lower-income dwelling

- (1) A dwelling is a **lower-income dwelling** if the dwelling satisfies the criteria set out in subsections (2) and (4).
- (2) A dwelling satisfies the criteria in this subsection if the dwelling is tenanted, or available to be tenanted, only by one or more of the following:
  - (a) an adult living alone whose taxable income, for the most recent income year, for which the Commissioner has given the adult a notice of assessment, ending before the dwelling's most recent assessing event, was less than 75% of average annual earnings;
  - (b) 2 or more adults living together whose combined taxable incomes, for the most recent income year, for which the Commissioner has given each adult a notice of assessment, ending before the dwelling's most recent assessing event, was less than 90% of average annual earnings;
  - (c) one adult living with one or more dependent children of the adult, where the adult's taxable income, for the most recent income year, for which the Commissioner has given the adult a notice of assessment, ending before the dwelling's most recent assessing event, was less than 100% of average annual earnings;
  - (d) 2 or more adults living with one or more dependent children of any of the adults, where the adults' combined taxable incomes for the most recent income year, for which the Commissioner has given each adult a notice of assessment, ending before the dwelling's most recent assessing event, was less than 100% of average annual earnings.
- (3) Despite subsection (2), if a dwelling no longer satisfies the criteria in that subsection only because of an event mentioned in subparagraph (c)(i) or (ii) of the definition of assessing event, the dwelling is taken to continue to satisfy the criteria until:
  - (a) if, immediately before the event, the dwelling was taken to satisfy the criteria in subsection (2) because of a previous application of this subsection—the day worked out under paragraph (b) for that previous application; or
  - (b) otherwise—the earlier of:
    - (i) the end of 12 months after the event; or
    - (ii) the end of the lease for the dwelling.
- (4) A dwelling satisfies the criteria in this subsection if the rent payable under a lease for the dwelling is *not* more than the lesser of:
  - (a) 74.9% of the market value of the right to occupy the dwelling under the lease; and
  - (b) 30% of:
    - (i) if the dwelling is tenanted by an adult (either living alone or with one or more dependent children)—the taxable income, for the most recent income year, for which the Commissioner has given the adult a notice of assessment, ending before the dwelling's most recent assessing event; or
    - (ii) if the dwelling is tenanted by 2 or more adults living together (either with or without one or more dependent children)—the combined taxable incomes, for the most recent income year, for which the



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Commissioner has given each adult a notice of assessment, ending before the dwelling's most recent assessing event.

- (5) Despite subsection (4), if:
- (a) an event mentioned in subparagraph (c)(iii) of the definition of assessing event occurs in relation to a dwelling; and
  - (b) because of that event, the dwelling no longer satisfies the criteria in subsection (4);
- the dwelling is taken to continue to satisfy the criteria in that subsection for the period of 60 days after the event.

*Request for rental review*

- (6) A tenant of a lower-income dwelling may provide a notice to the owner of the dwelling requesting a review of the rent payable under the lease for the dwelling if:
- (a) the notice is provided during a financial year; and
  - (b) a notice has *not* previously been provided in respect of the dwelling for the financial year.
- (7) The notice must:
- (a) be made in writing; and
  - (b) be accompanied by information that would enable the owner to assess whether the dwelling satisfies the criteria in subsection (4).

**4 At the end of the instrument**

Add:

**Part 10—Transitional provisions**

**Division 1—Transitional provisions relating to the Income Tax Assessment (Build to Rent Developments) Amendment (Expanding Affordability Requirements) Determination 2025**

**100 Application provision**

The amendments of this instrument made by the *Income Tax Assessment (Build to Rent Developments) Amendment (Expanding Affordability Requirements) Determination 2025* (the **amending determination**) apply in relation to a dwelling on and after the day that is 12 months after the commencement of the amending determination.