Foreign Acquisitions and Takeovers Act 1975

No. 92, 1975

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About this compilation

This compilation

This is a compilation of the *Foreign Acquisitions and Takeovers Act 1975* that shows the text of the law as amended and in force on 7 December 2016 (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 Legislation Register (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 series page on the Legislation 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.

Editorial changes

For more information about any editorial changes made in this compilation, see 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 series page on the Legislation 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If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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An Act relating to the foreign acquisition of certain land interests and to the foreign acquisition and foreign control of certain business enterprises and mineral rights

Part 1—Preliminary

Division 1—Preliminary

1 Short title

This Act may be cited as the *Foreign Acquisitions and Takeovers Act 1975*.

2 Commencement

This Act shall come into operation on a date to be fixed by Proclamation.

3 Simplified outline of this Act

This Act deals with certain actions to acquire interests in securities, assets or Australian land, and actions taken in relation to entities (being corporations and unit trusts) and businesses, that have a connection to Australia. These actions are called significant actions. For an action to be a significant action, the action must result in a change in control involving a foreign person or be taken by a foreign person.

If a person proposes to take or has taken a significant action, the Treasurer has power to do one or more of the following:

(a) decide that the Commonwealth has no objection to the action;
(b) impose conditions on the action;
(c) prohibit the action;

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(d) require the action to be undone (for example, by requiring the disposal of an interest that has been acquired).

Offences and civil penalties apply for failing to comply with:

(a) an order made prohibiting an action, or requiring an action to be undone; or

(b) a condition imposed on an action.

Some significant actions (called notifiable actions) must also be notified to the Treasurer before the actions can be taken. Offences and civil penalties may apply if a notifiable action is taken without a notice having been given. If a notice has been given stating that a significant action is proposed to be taken, the action must not be taken before the end of a specified period (generally of 40 days, or an additional period of up to 90 days from the registration of an interim order).

Fees are payable in relation to applications and orders made, and notices and notifications given, under this Act.

A person must make and keep records for the purposes of this Act, including in relation to significant actions and notifiable actions. Information that is obtained for the purposes of this Act (called protected information) may be disclosed only for certain purposes. A person who obtains, uses or discloses protected information other than as authorised by this Act may commit an offence.

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Division 2—Definitions

Subdivision A—Dictionary of definitions

4 Dictionary of definitions

In this Act:

6 month period has the meaning given by subsection 113(3).

acquire an interest of a specified percentage in an entity has the meaning given by section 20.

acquisition of property has the same meaning as in paragraph 51(xxxi) of the Constitution.

aggregate interest of a specified percentage in an entity has the meaning given by subsection 17(2).

aggregate substantial interest: 2 or more persons hold an ***aggregate substantial interest*** in an entity or trust if:

(a) for an entity—the persons hold an aggregate interest of at least 40% in the entity; or

(b) for a trust (including a unit trust)—the persons, together with any one or more associates of any of them hold, in the aggregate, beneficial interests in at least 40% of the income or property of the trust.

Note: See also sections 17 (meanings of ***interest*** and ***aggregate interest*** of a specified percentage in an entity) and 18 (rules relating to determining percentages of interests in entities).

agribusiness: an Australian entity or Australian business is an ***agribusiness*** in the circumstances prescribed by the regulations.

agricultural land means land in Australia that is used, or that could reasonably be used, for a primary production business.

Note: The regulations may provide that land of a specified kind is not agricultural land (see subsection 37(3)).

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agricultural land corporation has the meaning prescribed by the regulations.

agricultural land trust has the meaning prescribed by the regulations.

asset includes an interest in an asset.

associate has the meaning given by section 6.

Australia, when used in a geographical sense, includes the external Territories.

Australian business has the meaning given by section 8.

Australian corporation means a corporation formed in Australia.

Australian entity means an Australian corporation or an Australian unit trust.

Australian land means agricultural land, commercial land, residential land or a mining or production tenement.

Australian land corporation has the meaning prescribed by the regulations.

Australian land trust has the meaning prescribed by the regulations.

Australian subsidiary of a foreign entity means an Australian entity that is a subsidiary of the foreign entity.

Note: For the definition of ***subsidiary***, see section 21.

Australian unit trust means a unit trust:

(a) the trustee of which holds relevant Australian assets; or

(b) the trustee of which carries on an Australian business; or

(c) the central management and control of which is in Australia; or

(d) in which one or more persons who are ordinarily resident in Australia hold more than 50% of the beneficial interests in the income or property of the unit trust; or

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(e) that is listed for quotation in the official list of a stock exchange in Australia.

change in control has the meaning given by section 54.

civil penalty provision has the same meaning as in the Regulatory Powers Act.

commercial land means land in Australia or the seabed of the offshore area, other than land:

(a) used wholly and exclusively for a primary production business; or

(b) on which there is at least one dwelling (except commercial residential premises); or

(c) on which the number of dwellings (except commercial residential premises) that could reasonably be built is less than the number prescribed by the regulations for the purposes of subparagraph (a)(ii) of the definition of ***residential land*** in this section.

commercial residential premises has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999*.

Commonwealth entity has the same meaning as in the *Public Governance, Performance and Accountability Act 2013*.

Commonwealth, State or Territory body includes a Department of State, or an authority or agency, of the Commonwealth, a State or a Territory.

consideration has the meaning prescribed by the regulations.

constituent document of an entity means any rules or other document constituting or establishing the entity or governing its activities, and includes:

(a) for a corporation—the constitution of the corporation; and

(b) for a unit trust—the trust deed for the trust.

controls:

(a) the voting power—has the meaning given by section 23; and

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(b) an entity or business—has the meaning given by subsections 54(4) and (5).

debenture includes:

(a) debenture stock, bonds and notes; and

(b) any other document evidencing or acknowledging indebtedness of an entity, whether or not constituting a charge on the assets of the entity.

decision period has the meaning given by subsection 77(5).

determines the policy of a business of exploiting a mining or production tenement has a meaning affected by section 24.

development means one or more multi-storey buildings if:

(a) the buildings will be, are being or have been built; and

(b) the buildings are or were under one development approval; and

(c) the number of independent self-contained dwellings (other than townhouses) that the buildings contain or will contain is at least the number prescribed by the regulations.

direct interest has the meaning prescribed by the regulations.

director includes any person occupying the position of director (however described) of a corporation.

engage in conduct includes fail or refuse to engage in conduct.

enters has a meaning affected by section 25.

entity means a corporation or a unit trust.

established dwelling means a dwelling (except commercial residential premises) on residential land that is not a new dwelling.

exemption certificate means a certificate given under:

(a) section 57, 58 or 59; or

(b) regulations made for the purposes of section 63.

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

foreign entity means an entity that is not an Australian entity.

foreign government means an entity (within the ordinary meaning of the term) that is:

(a) a body politic of a foreign country; or

(b) a body politic of part of a foreign country; or

(c) a part of a body politic mentioned in paragraph (a) or (b).

foreign government investor has the meaning prescribed by the regulations.

foreign person means:

(a) an individual not ordinarily resident in Australia; or

(b) a corporation in which an individual not ordinarily resident in Australia, a foreign corporation or a foreign government holds a substantial interest; or

(c) a corporation in which 2 or more persons, each of whom is an individual not ordinarily resident in Australia, a foreign corporation or a foreign government, hold an aggregate substantial interest; or

(d) the trustee of a trust in which an individual not ordinarily resident in Australia, a foreign corporation or a foreign government holds a substantial interest; or

(e) the trustee of a trust in which 2 or more persons, each of whom is an individual not ordinarily resident in Australia, a foreign corporation or a foreign government, hold an aggregate substantial interest; or

(f) a foreign government; or

(g) any other person, or any other person that meets the conditions, prescribed by the regulations.

Note: In certain circumstances, an associate of a foreign person may be taken to be a foreign person even if the associate is not a foreign person (see subsection 54(7)).

general meeting of an entity means:

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(a) for a corporation—a general meeting of the corporation; or
(b) for a unit trust—a general meeting of the unit holders of the trust.

holding entity has the meaning given by subsection 21(4).

independent director has the meaning given by section 7.

interest:
(a) in a security—has the meaning given by section 9; and
(b) in an asset—has the meaning given by section 10; and
(c) in a trust—has the meaning given by section 11; and
(d) in Australian land—has the meaning given by section 12; and
(e) of a specified percentage in an entity—has the meaning given by section 17.

Note: For other rules relating to interests in a security, asset, trust or Australian land, see sections 13 to 15.

interim order means an order made under section 68.

just terms has the same meaning as in paragraph 51(xxxi) of the Constitution.

land includes:
(a) a building (including a new dwelling or an established dwelling) or a part of a building; and
(b) subsoil of land.

land register means a register kept under a law of the Commonwealth, a State or a Territory in which interests (within the ordinary meaning of the term) in Australian land are registered.

lease includes a sublease.

long term lease means a lease granted by the Commonwealth, a State or a Territory for a term (including any extension or renewal) that is reasonably likely, at the time the lease is granted, to exceed 20 years.

mining or production tenement means:

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(a) a right (however described) under a law of the Commonwealth, a State or a Territory to recover minerals (such as coal or ore), oil or gas in Australia or from the seabed or subsoil of the offshore area, other than a right to recover minerals, oil or gas for the purposes of prospecting or exploring for minerals, oil or gas; or

(b) a right that preserves a right mentioned in paragraph (a); or

(c) a lease under which the lessee has a right mentioned in paragraph (a) or (b); or

(d) an interest in a right mentioned in paragraph (a) or (b) or under a lease mentioned in paragraph (c).

new dwelling means a dwelling (except commercial residential premises) that will be, is being or has been built on residential land and that:

(a) has not been previously sold as a dwelling; and

(b) either:

(i) has not been previously occupied; or

(ii) if the dwelling is contained in a development and the dwelling was sold by the developer of the development—has not been previously occupied for more than 12 months in total.

Note: For when a dwelling is sold, see subsections 15(4) and (5).

new dwelling acquisition has the meaning given by subsection 113(4).

no objection notification has the meaning given by subsections 74(2) and 75(2).

notifiable action has the meaning given by Division 3 of Part 2.

officer of an entity includes the following:

(a) for a corporation—a director of the corporation;

(b) for a unit trust:

(i) the trustee of which is an individual—the trustee; and

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(ii) the trustee of which is a corporation—a director of the trustee; and

(iii) in any case—any other individual involved in the central management and control of the trust;

(c) a person who is, or a person in a group of persons who are, in a position to determine the investments or policy of the entity or a trustee of the entity;

(d) a person who makes, or participates in making, decisions that affect the whole, or a substantial part of, the business of the entity;

(e) a person who has the capacity to affect significantly the financial standing of the entity;

(f) a receiver and manager of any part of the business of the entity appointed under a power contained in any instrument;

(g) an administrator of the entity;

(h) an administrator under a deed of company arrangement executed by the entity;

(i) a liquidator of the entity appointed in a voluntary winding up.

offshore area means:

(a) the exclusive economic zone of Australia; or

(b) the continental shelf of Australia.

ordinarily resident has a meaning affected by section 5.

potential voting power has the meaning given by section 22.

primary production business has the same meaning as in the *Income Tax Assessment Act 1997*.

proposes:

(a) to acquire an interest in securities, assets or Australian land—has a meaning affected by subsection 16(1); and

(b) to enter or terminate an agreement—has a meaning affected by subsection 16(2).

protected information has the meaning given by section 120.

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Regulatory Powers Act means the *Regulatory Powers (Standard Provisions) Act 2014*.

relative has the same meaning as in the *Income Tax Assessment Act 1997*.

relevant Australian assets means:

(a) Australian land, including legal and equitable interests (within the ordinary meaning of the term) in such land; or

(b) securities in an Australian entity.

relevant entity means any of the following:

(a) an Australian entity;

(b) a foreign corporation:

(i) that holds relevant Australian assets; or

(ii) that is a holding corporation of one or more Australian corporations;

(c) a holding entity of such a foreign corporation or of an Australian unit trust.

Note: A holding entity mentioned in paragraph (c) may be a foreign corporation of a kind that is not mentioned in paragraph (b).

residential land:

(a) means land in Australia if:

(i) there is at least one dwelling on the land; or

(ii) the number of dwellings that could reasonably be built on the land is less than the number prescribed by the regulations; and

(b) does not include land:

(i) used wholly and exclusively for a primary production business; or

(ii) on which the only dwellings are commercial residential premises.

residential land acquisition means a notifiable action to acquire an interest in residential land.

scheme means:

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(a) any agreement, understanding, promise or undertaking:
  (i) whether express or implied; and
  (ii) whether or not enforceable, or intended to be enforceable, by legal proceedings; and
(b) any scheme, plan, proposal, action, course of action or course of conduct, whether unilateral or otherwise.

Secretary means the Secretary of the Department.

security means a share in a corporation or a unit in a unit trust.

senior officer of an entity means an officer of the entity under any of paragraphs (a) to (e) of the definition of ***officer*** in this section, except an independent director of the entity.

sensitive business has the meaning given by section 26.

separate government entity means an individual, corporation or corporation sole that:
(a) is an agency or instrumentality of a foreign country or a part of a foreign country; and
(b) is not part of the body politic of a foreign country or of a part of a foreign country.

share of a corporation means a share in the share capital of the corporation, and includes:
(a) stock into which all or any of the share capital of the corporation has been converted; and
(b) except in section 9, an interest in such a share or in such stock.

significant action has the meaning given by Division 2 of Part 2.

significant agreement with an Australian business is an agreement relating to:
(a) the leasing of, the letting on hire of, or the granting of other rights to use, assets of the business; or
(b) the participation by a person in the profits or central management and control of the business.

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subsidiary has the meaning given by subsections 21(1) to (3).

substantial interest: a person holds a ***substantial interest*** in an entity or trust if:

(a) for an entity—the person holds an interest of at least 20% in the entity; or

(b) for a trust (including a unit trust)—the person, together with any one or more associates, holds a beneficial interest in at least 20% of the income or property of the trust.

Note 1: See also sections 17 (meanings of ***interest*** and ***aggregate interest*** of a specified percentage in an entity) and 18 (rules relating to determining percentages of interests in entities).

Note 2: For when a person ***acquires*** a substantial interest in an entity, see section 20.

temporary resident means an individual who:

(a) holds a temporary visa under the *Migration Act 1958* that allows the individual to remain in Australia for a continuous period of more than 12 months (disregarding the amount of that period remaining); or

(b) meets the following conditions:

(i) the individual is residing in Australia;

(ii) the individual has applied for a permanent visa under the *Migration Act 1958*;

(iii) the individual holds a bridging visa under that Act that allows the individual to remain in Australia until the application has been finally determined; or

(c) meets the conditions prescribed by the regulations.

this Act includes the regulations.

threshold test is met has the meaning given by Subdivision B of Division 4 of Part 2.

tier 1 infringement notice has the meaning given by subsection 101(1).

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tier 2 infringement notice has the meaning given by subsection 101(2).

total asset value for an entity has the meaning prescribed by the regulations.

total issued securities value for an entity has the meaning prescribed by the regulations.

voting power has the meaning given by subsection 22(1).

Subdivision B—Some defined terms and rules of interpretation

5 Meaning of *ordinarily resident*

(1) An individual who is not an Australian citizen is ***ordinarily resident*** in Australia at a particular time if and only if:

(a) the individual has actually been in Australia during 200 or more days in the period of 12 months immediately preceding that time; and

(b) at that time:

(i) the individual is in Australia and the individual's continued presence in Australia is not subject to any limitation as to time imposed by law; or

(ii) the individual is not in Australia but, immediately before the individual's most recent departure from Australia, the individual's continued presence in Australia was not subject to any limitation as to time imposed by law.

(2) Without limiting paragraph (1)(b), an individual's continued presence in Australia is subject to a limitation as to time imposed by law if the individual is an unlawful non-citizen within the meaning of the *Migration Act 1958*.

6 Meaning of *associate*

(1) Each of the following persons is an ***associate*** of a person:

(a) any relative of the person;

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(b) any person with whom the person is acting, or proposes to act, in concert in relation to an action to which this Act may apply;

(c) any person with whom the person carries on a business in partnership;

(d) any entity of which the person is a senior officer;

(e) if the person is an entity:

(i) any holding entity of the entity; or

(ii) any senior officer of the entity;

(f) any entity whose senior officers are accustomed or under an obligation (whether formal or informal) to act in accordance with the directions, instructions or wishes of:

(i) the person; or

(ii) if the person is an entity—the senior officers of the person;

(g) an entity if the person is accustomed or under an obligation (whether formal or informal) to act in accordance with the directions, instructions or wishes of:

(i) the entity; or

(ii) the senior officers of the entity;

(h) any corporation in which the person holds a substantial interest;

(i) if the person is a corporation—a person who holds a substantial interest in the corporation;

(j) the trustee of a trust in which the person holds a substantial interest;

(k) if the person is the trustee of a trust—a person who holds a substantial interest in the trust;

(l) if the person is a foreign government, a separate government entity or a foreign government investor in relation to a foreign country (or a part of a foreign country):

(i) any other person that is a foreign government in relation to that country (or any part of that country); or

(ii) any other person that is a separate government entity in relation to that country (or any part of that country); or

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(iii) any other foreign government investor in relation to that country (or any part of that country).

Note: A person may be taken to be an associate under section 79.

Additional associates in relation to interests in residential land

(2) For an action taken relating to an interest in residential land (within the meaning of any of the paragraphs of subsection 12(1)), each of the following persons is also an ***associate*** of a person:

(a) an entity that is not listed for quotation in the official list of a stock exchange if a relative of the person:

(i) holds a substantial interest in the entity; or

(ii) is a senior officer of the entity;

(b) if the person is an entity (the ***first entity***)—another entity (the ***second entity***) if:

(i) an individual holds a substantial interest in the first entity or is a senior officer of the first entity; and

(ii) a relative of the individual holds a substantial interest in the second entity or is a senior officer of the second entity; and

(iii) the first entity and the second entity are not, and are not a subsidiary or trustee of an entity, listed for quotation in the official list of a stock exchange.

Persons who are not associates

(3) Despite subsections (1) and (2), a person is not an ***associate*** of another person merely because:

(a) one gives advice to the other, or acts on the other's behalf, in the proper performance of the functions attaching to a professional capacity or a business relationship; or

(b) one, a client, gives specific instructions to the other, whose ordinary business includes dealing in financial products (within the meaning of the *Corporations Act 2001*), to acquire financial products on the client's behalf in the ordinary course of that business; or

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(c) one had sent, or proposes to send, to the other an offer under a takeover bid (within the meaning of that Act) for securities held by the other; or

(d) one has appointed the other, otherwise than for valuable consideration (within the ordinary meaning of the term) given by the other or by an associate of the other, to vote as a proxy or representative; or

(e) both of the following apply:

(i) one provides independent services as a trustee of a trust to the other who is a beneficiary of the trust;

(ii) the trustee is licensed to provide those services under a law of the Commonwealth, a State, a Territory, a foreign country or a part of a foreign country; or

(f) one holds a substantial interest in a managed investment scheme (within the meaning of the *Corporations Act 2001*) and the other is the responsible entity of the scheme; or

(g) both are partners of one of the following kinds of partnerships:

(i) a partnership of actuaries or accountants;

(ii) a partnership of medical practitioners;

(iii) a partnership of patent attorneys;

(iv) a partnership of sharebrokers or stockbrokers;

(v) a partnership of trade mark attorneys;

(vi) a partnership that has as its primary purpose collaborative scientific research, and includes at least one university and one private sector participant (whether or not it also includes government agencies or publicly funded research bodies);

(vii) a partnership of architects;

(viii) a partnership of pharmaceutical chemists or veterinary surgeons;

(ix) a partnership of legal practitioners.

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7 Meaning of *independent director*

Listed entities

(1) A person is an ***independent director*** of an entity if:

(a) the person is:

(i) a director of the entity; or

(ii) for a unit trust—a director of a trustee of the entity; and

(b) the entity is listed for quotation in the official list of a stock exchange (whether or not in Australia); and

(c) the director meets the criteria of that stock exchange for a director to be independent (whether or not the criteria are binding).

Note: If the stock exchange does not have criteria for a director to be independent, a director of an entity listed for quotation in the official list of the stock exchange is not an independent director.

Entities whose securities are stapled

(2) A person is an ***independent director*** of an entity (the ***first entity***) if:

(a) the person is a director of the first entity and another entity; and

(b) the securities in the first entity can only be transferred together with securities in the other entity; and

(c) the first entity is not listed for quotation in the official list of a stock exchange, but the other entity is (whether or not in Australia); and

(d) the director meets the criteria of that stock exchange for a director to be independent (whether or not the criteria are binding).

8 Meaning of *Australian business*

(1) An ***Australian business*** is a business that is carried on wholly or partly in Australia in anticipation of profit or gain.

(2) For the purposes of this Act, a person who has an interest in a mining or production tenement is, as a result of having that

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interest, taken to carry on a business in Australia of exploiting that tenement in anticipation of profit or gain. The tenement is taken to be an asset of that business.

9 Meaning of *interest* in a security

(1) A person holds or acquires an ***interest*** in a security if he or she has any legal or equitable interest in that security.

Note 1: For other rules relating to interests in securities, see sections 13 to 15.

Note 2: See also section 19 (tracing of substantial interests in corporations and trusts).

(2) Without limiting subsection (1), a person holds or acquires an ***interest*** in a security in an entity if:

(a) the person is not the registered holder of the security; and

(b) the person is entitled to exercise or control the exercise of a right attached to the security (other than because he or she was appointed as a proxy or representative).

(3) In determining whether a person holds or acquires an interest in a security, it is immaterial that the interest cannot be related to a particular security.

Issued shares in a corporation

(4) A person holds or acquires an ***interest*** in the issued shares in a corporation if:

(a) all or part of the share capital of the corporation consists of stock; and

(b) the person holds an interest in that stock.

(5) For the purposes of this Act, the issued shares are taken to have:

(a) the same nominal amount as the amount of that stock; and

(b) the same rights attached to them as are attached to that stock.

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10 Meaning of *interest* in an asset

A person holds or acquires an ***interest*** in an asset if he or she has any legal or equitable interest in that asset.

Note 1: For other rules relating to interests in assets, see sections 13 to 15.

Note 2: See also section 19 (tracing of substantial interests in corporations and trusts).

11 Meaning of *interest* in a trust

A person holds or acquires an ***interest*** in a trust if:

(a) the person holds or acquires a beneficial interest in the income or property of the trust; or

(b) the person holds or acquires an interest in a unit in a unit trust.

Note 1: For other rules relating to interests in trusts, see sections 13 to 15.

Note 2: See also section 19 (tracing of substantial interests in corporations and trusts).

12 Meaning of *interest* in Australian land

(1) An ***interest*** in Australian land (however described) is:

(a) a legal or equitable interest in Australian land, other than:

(i) an interest under a lease or licence or in a unit in a unit trust; or

(ii) an interest in an agreement giving a right (known as a profit à prendre) to take something off another person's land, or to take something out of the soil of that land; or

(iii) an interest in an agreement involving the sharing of profits or income from the use of, or dealings in, Australian land; or

(b) an interest in a security in an entity that owns Australian land, being a security that entitles the holder to a right to occupy a dwelling of a kind known as a flat or home unit situated on the land; or

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(c) an interest as lessee or licensee in a lease or licence giving rights to occupy Australian land if the term of the lease or licence (including any extension or renewal) is reasonably likely, at the time the interest is acquired, to exceed 5 years; or

(d) an interest in an agreement giving a right of a kind mentioned in subparagraph (a)(ii) if the term of the agreement (including any extension or renewal) is reasonably likely, at the time the interest in the agreement is acquired, to exceed 5 years; or

(e) an interest in an agreement involving the sharing of profits or income from the use of, or dealings in, Australian land if the term of the agreement (including any extension or renewal) is reasonably likely, at the time the interest in the agreement is acquired, to exceed 5 years; or

(f) an interest in a share in an Australian land corporation or agricultural land corporation; or

(g) an interest in a unit in an Australian land trust or agricultural land trust; or

(h) if the trustee of an Australian land trust or agricultural land trust is a corporation—an interest in a share in that corporation.

Note 1: For other rules relating to interests in Australian land, see sections 13 to 15.

Note 2: Australian land may be described as "residential land", "agricultural land" or "commercial land", or as "a new dwelling" or "an established dwelling".

(2) An interest is an ***interest*** in Australian land even if it is the only interest that exists in the land or other thing concerned.

(3) A person acquires an interest in Australian land even if:

(a) the person has previously acquired an interest in Australian land; or

(b) the interest is an increase in the amount of an existing interest of the person in Australian land.

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13 Interests that are remote or subject to restraint etc.

A person holds or acquires an interest in a security, asset, trust or Australian land despite:

(a) its remoteness; or

(b) the manner in which it arose; or

(c) the fact that the exercise of a right conferred by the interest is, or is capable of being made, subject to restraint or restriction.

14 Interests held or acquired jointly

A person holds or acquires an interest in a security, asset, trust or Australian land even if the person holds or acquires the interest jointly with one or more other persons.

15 Interests acquired by entering agreements or acquiring options

(1) For the purposes of this Act, a person is taken (except as provided by subsections (4) and (5)) to acquire an interest in a security, asset, trust or Australian land if the person:

(a) enters an agreement to acquire the interest; or

(b) either:

(i) for an interest in a security, asset or trust—has a right to acquire such an interest under an option; or

(ii) for an interest in Australian land—acquires an option to acquire such an interest; or

(c) has a right, other than by reason of having an interest under a trust, to have such an interest transferred to himself or herself or to his or her associate.

Note: For the definition of ***enters***, see section 25.

(2) To avoid doubt, a right mentioned in paragraph (1)(b) or (c) includes a right under an instrument or agreement.

(3) Subsections (1) and (2) apply whether or not:

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(a) the right or option is presently exercisable or exercisable in the future; or

(b) the agreement, right or option requires the fulfilment of a condition.

Provisions of agreements that are not currently binding

(4) Subsection (5) applies for the purposes of the following provisions:

(a) Part 4 (notice of notifiable action);

(b) Part 5 (offences and civil penalties) to the extent that it relates to Part 4;

(c) any other provision of this Act to the extent that it relates to the provisions mentioned in paragraph (a) or (b);

(d) the definition of ***new dwelling*** in section 4 (including to the extent that the definition affects the definition of ***established dwelling*** in that section), except in section 95 (acquisition of interests in established dwellings).

(5) If:

(a) a person proposes to take an action to acquire or sell an interest in a security, asset, trust or Australian land; and

(b) the provisions of the agreement to acquire or sell the interest do not become binding on the person until one or more conditions are met;

the person takes the action to acquire or sell the interest, and enters the agreement, only when the provisions become binding.

Note: As a result of this subsection, the person acquires or sells the interest only when the provisions become binding.

16 Meaning of *proposes* to take certain action

(1) A person ***proposes*** to acquire an interest in securities, assets or Australian land if:

(a) the person makes an offer to acquire the interest; or

(b) the person makes or publishes a statement (however expressed) that expressly or impliedly invites a holder of an interest in securities, assets or Australian land to offer to

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dispose of an interest in securities, assets or Australian land; or

(c) the person takes part in, or proposes to take part in, negotiations with a view to acquiring an interest in securities, assets or Australian land.

(2) A person ***proposes*** to enter or terminate an agreement if the person takes part in, or proposes to take part in, negotiations with a view to entering or terminating the agreement.

(3) This section does not limit the meaning of ***propose***.

17 Meanings of *interest* and *aggregate interest* of a specified percentage in an entity

*Meaning of **interest** of a specified percentage in an entity*

(1) A person holds an ***interest*** of a specified percentage in an entity if the person, alone or together with one or more associates of the person:

(a) is in a position to control at least that percentage of the voting power or potential voting power in the entity; or

(b) holds interests in at least that percentage of the issued securities in the entity; or

(c) would hold interests in at least that percentage of the issued securities in the entity if securities in the entity were issued or transferred as the result of the exercise of rights of a kind mentioned in paragraph 15(1)(b) or (c).

Note 1: See also section 18 (rules relating to determining percentages of interests in entities) and the definition of ***acquire*** in section 20.

Note 2: A percentage may be specified by referring to:

(a) "20%"; or

(b) "any percentage"; or

(c) a "substantial interest" or a "direct interest"; or

(d) a percentage that a person holds in another entity.

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*Meaning of **aggregate interest** of a specified percentage in an entity*

(2) Two or more persons (who are not associates of each other) hold an ***aggregate interest*** of a specified percentage in an entity if they, together with any one or more associates of any of them:

(a) are in a position to control at least that percentage of the voting power or potential voting power in the entity; or

(b) hold interests in at least that percentage of the issued securities in the entity; or

(c) would hold interests in at least that percentage of the issued securities in the entity if securities in the entity were issued or transferred as the result of the exercise of rights of a kind mentioned in paragraph 15(1)(b) or (c).

Proxies and representatives

(3) In determining the percentage of voting power or potential voting power that a person is in a position to control in an entity, disregard any votes that he or she controls as a proxy or representative.

18 Rules relating to determining percentages of interests in entities

Exercise of future rights

(1) Subsection (2) applies if:

(a) a person has a right that, if exercised, would result in the person holding an interest in an issued security in the entity; and

(b) it cannot be determined at that time (from the right itself or from the circumstances existing at that time) whether the right would be exercised.

(2) For the purposes of this Act, in determining the percentage of the interests in the issued securities in the entity that the person holds, or would hold, at a particular time, assume that the right were exercised at that time.

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Discretionary trusts

(3) For the purposes of this Act, if, under the terms of a trust, a trustee has a power or discretion to distribute the income or property of the trust to one or more beneficiaries, each beneficiary is taken to hold a beneficial interest in the maximum percentage of income or property of the trust that the trustee may distribute to that beneficiary.

19 Tracing of substantial interests in corporations and trusts

(1) This section applies (subject to subsection (3)) if:

(a) either:

(i) a person holds a substantial interest in a corporation or trust (the ***higher entity***); or

(ii) 2 or more persons hold an aggregate substantial interest in a corporation (the ***higher entity***); or

(iii) 2 or more persons hold an aggregate substantial interest in a trust (the trustee of which is a ***higher entity***);

including because of one or more applications of this section; and

(b) the higher entity:

(i) is in a position to control all or any of the voting power or potential voting power in a corporation (the ***lower entity***); or

(ii) holds interests in all or any of the shares in a corporation (the ***lower entity***); or

(iii) holds an interest in a trust (the ***lower entity***).

(2) For the purposes of this Act:

(a) if subparagraph (1)(b)(i) applies—the person or persons are taken to be in a position to control the voting power or potential voting power of the lower entity that the higher entity is in a position to control; or

(b) if subparagraph (1)(b)(ii) applies—the person or persons are taken to hold the interests in the shares in the lower entity that the higher entity holds; or

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(c) if subparagraph (1)(b)(iii) applies—the person or persons are taken to hold the interest in the lower entity that the higher entity holds.

(3) This section does not apply for the purpose of:

(a) determining under any of the following whether a foreign person acquires a direct interest in an Australian entity or Australian business that is an agribusiness:

(i) paragraph 40(2)(a) (meaning of ***significant action***—entities);

(ii) paragraph 41(2)(a) (meaning of ***significant action***—businesses);

(iii) paragraph 47(2)(a) (meaning of ***notifiable action***—general); or

(b) determining under paragraph 47(2)(b) (meaning of ***notifiable action***—general) whether a foreign person acquires a substantial interest in an Australian entity.

20 Meaning of *acquire* an interest of a specified percentage in an entity

(1) A person ***acquires*** an interest of a specified percentage in an entity if the person:

(a) starts to hold an interest of that percentage in the entity; or

(b) would start to hold an interest of that percentage in the entity on the assumption that the person:

(i) held interests in securities that are interests that he or she has offered to acquire; or

(ii) held rights to votes that might be cast at a general meeting of the entity that are rights that he or she has offered to acquire; or

(c) for a person who already holds an interest of that percentage in the entity:

(i) becomes in a position to control more of the voting power or potential voting power in the entity; or

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(ii) starts to hold additional interests in the issued securities in the entity; or

(iii) would start to hold additional interests in the issued securities in the entity if securities in the entity were issued or transferred as the result of the exercise of rights of a kind mentioned in paragraph 15(1)(b) or (c).

Note 1: For the definition of ***general meeting***, see section 4.

Note 2: A percentage may be specified by referring to:
(a) "20%"; or
(b) "any percentage"; or
(c) a "substantial interest" or a "direct interest"; or
(d) a percentage that a person holds in another entity.

(2) For the purposes of subsection (1), a reference to a person offering to acquire interests in securities or rights includes a reference to a person making or publishing a statement (however expressed) that expressly or impliedly invites a holder of interests in securities or rights to offer to dispose of interests in securities or rights.

21 Meanings of *subsidiary* and *holding entity*

Meaning of ***subsidiary***

(1) An entity (the ***lower entity***) is a ***subsidiary*** of another entity (the ***higher entity***) if:

(a) the higher entity:

(i) is in a position to control more than half the voting power in the lower entity; or

(ii) holds more than half the issued securities in the lower entity (disregarding any securities that carry no right to participate beyond a specified amount in a distribution of either profits or capital); or

(b) the lower entity is a subsidiary of an entity that is the higher entity's subsidiary (including because of one or more applications of this subsection).

Note: The lower entity need not be the immediate subsidiary of the higher entity under paragraph (1)(a) (see section 23 which provides that a

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person may control the voting power in an entity directly or indirectly, and section 19 which provides that a person is taken to hold interests in securities that are traced through a chain of corporations or trusts).

(2) In determining whether a lower entity is a subsidiary of a higher entity, disregard any securities held or power exercisable by:
  (a) the higher entity in a fiduciary capacity; or
  (b) any person as a result of a debenture of the lower entity; or
  (c) any person as a result of a trust deed for securing the issue of a debenture of the lower entity.

(3) In determining whether a lower entity is a subsidiary of a higher entity, any securities held or power exercisable:
  (a) by any person as a nominee for the higher entity; or
  (b) by, or by a nominee for, a subsidiary of the higher entity;

are taken to be held or exercisable by the higher entity.

*Meaning of **holding entity***

(4) An entity (the ***higher entity***) is a ***holding entity*** of another entity (the ***lower entity***) if the lower entity is a subsidiary of the higher entity.

22 Meanings of *voting power* and *potential voting power*

*Meaning of **voting power***

(1) The ***voting power*** in an entity is the maximum number of votes that might be cast at a general meeting of the entity.

Note: For the definition of ***general meeting***, see section 4.

*Meaning of **potential voting power***

(2) The ***potential voting power*** in an entity is the voting power in the entity, on the assumption that the votes that might be cast at a general meeting of the entity included each vote that:
  (a) because of the exercise of a right might come into existence in the future (whether or not the right is exercisable presently or in the future or on the fulfilment of a condition); and

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(b) if it came into existence, might be cast at a general meeting of the entity.

Note: Different voting rights might attach to different classes of securities in an entity.

Exercise of future rights

(3) In determining how much of the ***potential voting power*** in an entity a person is in a position to control at a particular time, if:

(a) a right exists that, if exercised, would result in the person being in a position to control more of the potential voting power in the entity than the person would be in a position to control if the right were not exercised; and

(b) it cannot be determined at that time (whether from the right itself or from the circumstances existing at that time) whether the right would be exercised;

assume that the right were exercised at that time.

Veto power

(4) If a person is in a position to veto any resolution of the board, central management or general meeting of an entity, then for the purposes of this Act (except paragraph 47(2)(b) (meaning of ***notifiable action***) and subsection 54(4) (meaning of ***control***)) the person is taken to be in a position to control 20% of the potential voting power in the entity.

23 Meaning of *controls* the voting power

A person ***controls*** the voting power in an entity if the person controls the power directly or indirectly, including as a result or by means of agreements or practices, whether or not the agreements or practices:

(a) have legal or equitable force; or

(b) are based on legal or equitable rights.

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24 Meaning of *determines the policy* of a business of exploiting a mining or production tenement

(1) A person ***determines the policy*** of a business of exploiting a mining or production tenement if the person determines questions relating to the disposal of an interest in the tenement.

(2) This section does not limit the meaning of ***determines the policy*** of a business of exploiting a mining or production tenement.

25 Meaning of *enters* an agreement

(1) A person ***enters*** an agreement if:

(a) the person enters into any formal or informal scheme, including by:

(i) creating a trust (whether express or implied); or

(ii) entering into a transaction; or

(iii) acquiring an interest in a security, asset, trust or Australian land; or

(b) the agreement is materially altered or varied.

Note 1: For the definition of ***scheme***, see section 4.

Note 2: A variation of an agreement that increases the percentage that a person holds in an entity is material. A variation to the way the consideration for an acquisition of an interest is worked out is not material.

(2) This section does not limit the meaning of ***enters***.

26 Meaning of *sensitive business*

(1) A business is a ***sensitive business*** if the business meets the conditions specified in the regulations.

(2) Without limiting subsection (1) or subsection 33(3A) of the *Acts Interpretation Act 1901*, the regulations may prescribe:

(a) sensitive businesses generally, or different sensitive businesses for different kinds of foreign persons; and

(b) different conditions for different sensitive businesses.

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27 Regulations to provide in relation to valuing assets

The regulations may provide in relation to valuing the assets of an entity, trust or business.

28 Acts done by agents

An act done or proposed to be done by an agent on behalf of his or her principal is taken to be done or proposed to be done by his or her principal.

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Division 3—Application of this Act

29 Application of this Act to individuals and entities

This Act applies to:

(a) all individuals, whether or not resident in Australia or Australian citizens; and

(b) all corporations, whether or not formed or carrying on business in Australia; and

(c) all unit trusts, whether or not Australian unit trusts.

30 Extension to external Territories

This Act extends to every external Territory.

31 Extraterritoriality

This Act applies both within and outside Australia.

32 Extension to exclusive economic zone and continental shelf

This Act extends to a matter relating to the exercise of Australia's sovereign rights in the exclusive economic zone or the continental shelf.

33 This Act binds the Crown

(1) This Act binds the Crown in each of its capacities.

(2) This Act does not make the Crown liable to a pecuniary penalty or to be prosecuted for an offence.

34 Concurrent operation of State and Territory laws

This Act is not intended to exclude or limit the operation of a law of a State or Territory to the extent that it is capable of operating concurrently with this Act.

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35 General severability

Application of this section

(1) This section applies in relation to each of the following persons:
  (a) a foreign person;
  (b) a corporation;
  (c) a person applying for an exemption certificate under:
    (i) section 57 (certificates for new dwellings); or
    (ii) regulations made for the purposes of section 63;
  (d) an individual who holds a substantial interest, or who, as one of 2 or more persons, holds an aggregate substantial interest in a corporation or trust.

Effect of this Act

(2) Without limiting the effect of this Act apart from this section, this Act also has effect as provided by this section.

(3) To avoid doubt, no subsection of this section limits the operation of any other subsection of this section.

External affairs power

(4) This Act has the effect it would have if each reference to a person mentioned in subsection (1) were expressly confined to a person outside Australia.

Corporations power

(5) This Act has the effect it would have if each reference to a person mentioned in subsection (1) were expressly confined to a corporation to which paragraph 51(xx) of the Constitution applies.

Aliens power

(6) This Act has the effect it would have if each reference to a person mentioned in subsection (1) were expressly confined to an alien (within the meaning of paragraph 51(xix) of the Constitution).

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Trade and commerce power

(7) This Act has the effect it would have if each reference to a person mentioned in subsection (1) were expressly confined to a person engaged in:

(a) trade or commerce between Australia and places outside Australia; or

(b) trade or commerce among the States; or

(c) trade or commerce within a Territory, between a State and a Territory or between 2 Territories.

Territories and Commonwealth places power

(8) This Act has the effect it would have if each reference to a person mentioned in subsection (1) were expressly confined to a person in, or a person taking an action in relation to:

(a) a Territory; or

(b) a Commonwealth place (within the meaning of the *Commonwealth Places (Application of Laws) Act 1970*).

36 Severability relating to Australian businesses

Without limiting the effect of this Act apart from this section, this Act also has the effect it would have if each reference to an Australian business were expressly confined to a reference to an Australian business being carried on by a corporation.

Note: The reference to a corporation in this section is affected by section 35 (general severability).

37 Regulations providing for exemptions

(1) The regulations may provide that this Act, or specified provisions of this Act, do not apply in relation to any of, or any combination of, the following:

(a) acquisitions of the kind or in the circumstances prescribed by the regulations;

(b) interests of the kind or in the circumstances prescribed by the regulations;

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(c) Australian businesses of the kind or in the circumstances prescribed by the regulations;

(d) foreign persons of the kind or in the circumstances prescribed by the regulations.

Note: Provisions may be specified by referring to:
(a) a particular provision; or
(b) this Act, other than specified provisions.

(2) Without limiting subsection (1), the regulations may provide that specified provisions of the Act do not apply to a specified extent.

(3) Without limiting subsection (1), the regulations may provide that land of a specified kind is not agricultural land.

(4) The regulations may provide that specified foreign persons who take action in relation to interests in Australian land may disregard the fact that the land is agricultural land for all or specified purposes.

(5) Regulations providing as mentioned in paragraph (4)(a) do not affect the operation of this Act to the extent that the action is otherwise a significant action or notifiable action.

(6) Regulations made for the purposes of this section have effect according to their terms.

(7) This Act does not limit the regulations that may be made for the purposes of this section.

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Part 2—Meaning of significant action and notifiable action

Division 1—Simplified outline of this Part

38 Simplified outline of this Part

The concepts of ***significant action*** and ***notifiable action*** are 2 of the most important concepts in this Act.

The Treasurer has powers to make orders and decisions under Part 3 in relation to any significant action taken or proposed to be taken.

A foreign person must give the Treasurer a notice before taking a notifiable action. Only some significant actions are notifiable actions.

Those concepts are defined in this Part.

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Division 2—Meaning of significant action

39 Simplified outline of this Division

Broadly, a significant action is an action to acquire interests in securities, assets or Australian land, or otherwise take action in relation to entities (being corporations and unit trusts) and businesses, that have a connection to Australia. For an action to be a significant action, the action must result in a change in control involving a foreign person or be taken by a foreign person.

Generally, the action is only a significant action if the entity, business or land meets the threshold test. A different threshold test applies for certain significant actions taken in relation to agribusinesses.

The regulations may also prescribe actions that are significant actions.

An acquisition of an interest in Australian land by a foreign person that is specified in an exemption certificate under Division 5 is generally not a significant action.

Division 6 deals with the treatment of entities whose securities are stapled and entities operating on a unified basis.

40 Meaning of *significant action*—entities

(1) An action is a ***significant action*** if the conditions in this section are met.

First condition—kinds of action

(2) The first condition is that the action is any of the following:

(a) to acquire a direct interest in an Australian entity that is an agribusiness;

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(b) to acquire interests in securities in an entity;

(c) to issue securities in an entity;

(d) to enter an agreement:

(i) relating to the affairs of the entity; and

(ii) under which one or more senior officers of the entity will be under an obligation to act in accordance with the directions, instructions or wishes of a foreign person who holds a substantial interest in the entity (or of an associate of such a foreign person);

(e) to alter a constituent document of the entity as a result of which one or more senior officers of the entity will be under an obligation to act in accordance with the directions, instructions or wishes of a foreign person who holds a substantial interest in the entity (or of an associate of such a foreign person).

Note: An action mentioned in any of paragraphs (2)(b) to (e) may be taken in relation to an Australian entity that is an agribusiness (see section 42).

Second condition—threshold

(3) The second condition is that the threshold test is met in relation to the entity (see Subdivision B of Division 4).

Third condition—kinds of entities covered

(4) The third condition (except if paragraph (2)(a) applies) is that the entity is the following:

(a) for an acquisition of interests in shares or an issue of shares:

(i) a corporation that is a relevant entity that carries on an Australian business, whether alone or together with one or more other persons; or

(ii) the holding entity of such a corporation;

(b) for any other action relating to a corporation:

(i) an Australian corporation that carries on an Australian business, whether alone or together with one or more other persons; or

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(ii) the holding entity (other than a foreign corporation) of such a corporation;

(c) for an action relating to a unit trust:

(i) an Australian unit trust; or

(ii) a holding entity of an Australian unit trust.

Last condition—action taken by a foreign person

(5) If paragraph (2)(a) applies, the last condition is that the action is or is to be taken by a foreign person.

Last condition—action results in change in control

(6) If any of paragraphs (2)(b) to (e) apply, the last condition is that there would be or has been a change in control of the entity as a result of the action (see Subdivision C of Division 4).

41 Meaning of *significant action*—businesses

(1) An action is a ***significant action*** if the conditions in this section are met.

First condition—kinds of action

(2) The first condition is that the action is any of the following:

(a) to acquire a direct interest in an Australian business that is an agribusiness;

(b) to acquire interests in assets of an Australian business;

(c) to enter or terminate a significant agreement with an Australian business.

Note: An action mentioned in paragraph (2)(b) or (c) may be taken in relation to an Australian business that is an agribusiness (see section 42).

Second condition—threshold

(3) The second condition is that the threshold test is met in relation to the Australian business (see Subdivision B of Division 4).

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Third condition—action taken by a foreign person

(4) If paragraph (2)(a) applies, the third condition is that the action is or is to be taken by a foreign person.

Third condition—action results in change in control

(5) If paragraph (2)(b) or (c) applies, the third condition is that there would be or has been a change in control of the business as a result of the action (see Subdivision C of Division 4).

42 Action taken in relation to agribusinesses

To avoid doubt, a person may take an action under any of paragraphs 40(2)(b) to (e) or 41(2)(b) or (c) in relation to an Australian entity or Australian business that is an agribusiness.

43 Meaning of *significant action*—land

An action is a ***significant action*** if:

(a) the action is for a foreign person to acquire an interest in Australian land; and

(b) the threshold test is met in relation to the land (see Subdivision B of Division 4).

Note: Certain acquisitions of land by foreign persons may not be significant actions (see section 45).

44 Meaning of *significant action*—actions prescribed by the regulations

(1) The regulations may provide that a specified action is a ***significant action*** (including by providing that a specified action is a ***significant action*** if specified conditions are met).

(2) Sections 40, 41 and 43 do not limit the actions that may be specified by the regulations.

Note: For example, the regulations may specify an action without requiring the threshold test to be met or a change in control.

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45 Actions that are not *significant actions*—exemption certificates

(1) Despite this Division, an action is not a ***significant action*** if:

(a) the action is a foreign person acquiring an interest in a new dwelling that will be, is being or has been built on another interest (the ***development interest***) in Australian land; and

(b) the acquisition was from a person who was specified in an exemption certificate in force under section 57; and

(c) the development interest was specified in the certificate; and

(d) the specified person provided the foreign person with a copy of that certificate before the foreign person acquired the interest; and

(e) either:

(i) the conditions (if any) specified in the certificate were met; or

(ii) the foreign person is not, at the time of the action, aware that one or more of the conditions specified in the certificate have not been met.

(2) Despite this Division, an action is not a ***significant action*** if:

(a) the action is a foreign person acquiring a kind of interest in Australian land; and

(b) the foreign person is specified in an exemption certificate in force under section 58 or 59; and

(c) the interest is, or is of a kind, specified in the certificate; and

(d) the conditions (if any) specified in the certificate were met.

(3) The regulations may provide, in relation to exemption certificates in force under regulations made for the purposes of section 63, that an action of a specified kind is not a ***significant action***.

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Division 3—Meaning of notifiable action

46 Simplified outline of this Division

A notifiable action is a proposed action by a foreign person:

(a) to acquire a direct interest in an Australian entity or Australian business that is an agribusiness; or

(b) to acquire a substantial interest in an Australian entity; or

(c) to acquire an interest in Australian land.

Generally, the action is only notifiable if the entity, business or land meets the threshold test. A different threshold test applies for certain notifiable actions taken in relation to agribusinesses.

Unlike for a significant action, there does not need to be a change in control for actions relating to entities and businesses to be notifiable actions.

The regulations may also prescribe actions that are notifiable actions.

Actions to acquire interests in Australian land that are specified in an exemption certificate under Division 5 are generally not notifiable actions.

Division 6 deals with the treatment of entities whose securities are stapled and entities operating on a unified basis.

47 Meaning of *notifiable action*—general

(1) An action is a ***notifiable action*** if the conditions in this section are met.

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First condition—kinds of action

(2) The first condition is that the action is any of the following:
  (a) to acquire a direct interest in an Australian entity or Australian business that is an agribusiness;
  (b) to acquire a substantial interest in an Australian entity;
  (c) to acquire an interest in Australian land.

Note: For the definition of ***acquire*** a direct interest or a substantial interest, see section 20.

Second condition—threshold

(3) The second condition is that the threshold test is met in relation to the entity, business or land (see Subdivision B of Division 4).

Third condition—kinds of entities covered

(4) If paragraph (2)(a) or (b) applies, the third condition is that the entity is:
  (a) an Australian corporation that carries on an Australian business, whether alone or together with one or more other persons; or
  (b) an Australian unit trust; or
  (c) an Australian entity that is the holding entity of an entity mentioned in paragraph (a) or (b).

Last condition—action taken by a foreign person

(5) The last condition (whether paragraph (2)(a), (b) or (c) applies) is that the action is or is to be taken by a foreign person.

48 Meaning of *notifiable action*—actions prescribed by the regulations

(1) The regulations may provide that a specified action is a ***notifiable action*** (including by providing that a specified action is a ***notifiable action*** if specified conditions are met).

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(2) Section 47 does not limit the actions that may be specified by the regulations.

Note: For example, the regulations may specify an action without requiring the threshold test to be met.

49 Actions that are not *notifiable actions*—exemption certificates

(1) Despite this Division, an action is not a ***notifiable action*** if:

(a) the action is a foreign person acquiring an interest in Australian land; and

(b) the action would not be a significant action under section 45 (actions that are not ***significant actions***—exemption certificates).

(2) The regulations may provide, in relation to exemption certificates in force under regulations made for the purposes of section 63, that an action of a specified kind is not a ***notifiable action***.

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Division 4—The threshold test and change in control

Subdivision A—Simplified outline of this Division

50 Simplified outline of this Division

Two important tests in determining whether an action is a significant action are whether the threshold test is met and whether there has been a change in control.

For the threshold test to be met, a certain value must be above a threshold prescribed by the regulations. The value depends on the action taken.

There is a change in control of an entity or business if the Treasurer is satisfied that one or more foreign persons begin to control the entity or business, or the foreign persons who currently control the entity or business change.

One or more persons who hold a substantial interest or an aggregate substantial interest in an entity are taken to control the entity. Also, a person controls the entity if the person is in a position to determine the policy of the entity or business.

There are broad powers for the regulations to prescribe thresholds under this Part.

Subdivision B—The threshold test

51 The threshold test for entities and businesses

The ***threshold test is met*** in relation to an entity or business for a significant action mentioned in column 1 of the following table if the value mentioned in column 2 of the table is more than the value prescribed by the regulations.

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When the threshold test is met		
Item	**Column 1** **Significant action**	**Column 2** **Value**
1	A person acquiring a direct interest in an Australian entity or Australian business that is an agribusiness	The total of the following: (a) the value of the consideration for the acquisition; (b) the total value of the other interests held by the person, alone or together with one or more associates: (i) in the entity or business; or (ii) previously acquired from the entity or business
2	Acquiring interests in securities in an entity, or issuing securities in an entity	The higher of the following: (a) the total asset value for the entity; (b) the total issued securities value for the entity
3	Entering an agreement mentioned in paragraph 40(2)(d) in relation to an entity, or altering a constituent document of an entity as mentioned in paragraph 40(2)(e)	The total asset value for the entity
4	Acquiring interests in the assets of an Australian business	The value of the consideration for the acquisition
5	Entering or terminating a significant agreement with an Australian business	The total value of the assets of the business

Note 1: ***Total asset value***, ***total issued securities value*** and ***consideration*** are defined by the regulations (see section 4).

Note 2: The regulations may provide in relation to valuing assets of an entity or business (see section 27).

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52 The threshold test for land

Land without threshold value

(1) The ***threshold test is met*** in relation to land if the land is of a kind that is prescribed by the regulations for the purposes of this subsection.

Agricultural land where total value of interests is above threshold value

(2) The ***threshold test is met*** in relation to land if both of the following apply:
  (a) the land is agricultural land;
  (b) the total value of the following is more than the value prescribed for the purposes of this paragraph:
    (i) all interests in agricultural land held by the foreign person, alone or together with one or more associates;
    (ii) the consideration for the acquisition of the interest in the land.

Note: ***Consideration*** is defined by the regulations (see section 4).

Other land where value of interest is above threshold value

(3) The ***threshold test is met*** in relation to land if both of the following apply:
  (a) the land is not land prescribed for the purposes of subsection (1) or agricultural land;
  (b) the value of the interest in the land is more than the value prescribed for the purposes of this paragraph.

53 The threshold test in relation to actions of more than one kind

Agreements covering more than one action

(1) If an action relating to an entity, business or land is covered by an agreement, the action is a significant action if the threshold test is met in relation to the entity, business or land even if the threshold

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test is not met for another action covered by the agreement (whether or not relating to the same entity, business or land).

Actions of more than one kind

(2) If either or both of the following apply:

(a) a single action is covered by more than one of the following (because an action is an action of more than one kind):

(i) paragraph 40(2)(a), (b), (c), (d) or (e);

(ii) paragraph 41(2)(a), (b) or (c);

(iii) paragraph 43(a);

(iv) a provision of regulations made for the purposes of section 44;

(b) a single action relating to land is covered by more than one subsection of section 52 (because the land is land of more than one kind);

the threshold test is met in relation to the single action if the test is met in relation to any of the kinds of actions or land (even if the threshold test is not met in relation to any of the other kinds of actions or land).

Example 1: An acquisition of an interest in securities in an Australian land corporation is covered by paragraphs 40(2)(b) and 43(a). The threshold test is met if the threshold test is met in relation to the corporation or land held by the corporation.

Example 2: An acquisition of an interest in land may be an acquisition of an interest in a mining or production tenement and an interest in agricultural land. The threshold test is met if the threshold test is met in relation to either kind of land.

Subdivision C—Change in control

54 Change in control

(1) For the purposes of determining whether an action is a significant action, there is a ***change in control*** of an entity or business if, and only if, the Treasurer is satisfied that the action would have, or has had, any of the results mentioned in subsection (2) or (3).

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Foreign persons begin to control entity or business

(2) One or more foreign persons would begin, or have begun, to control the entity or business (whether alone or together with any associates of any of those persons).

Change in foreign persons who control the entity or business

(3) If one or more foreign persons already control or controlled the entity or business:
  (a) another foreign person would become, or has become, a person who controls the entity or business; or
  (b) a person would cease, or has ceased, to be a person who controls the entity or business.

*Meaning of **control***

(4) A person ***controls*** an entity or business if:
  (a) the person (whether alone or together with one or more associates) is in a position to determine the policy of the entity or business in relation to any matter; or
  (b) without limiting paragraph (a), in relation to the acquisition of interests in securities in an entity or an issue of securities in an entity:
    (i) the person holds a substantial interest in the entity; or
    (ii) the person is one of 2 or more persons who hold an aggregate substantial interest in the entity.

Note: For determining the policy of a business of exploiting a mining or production tenement, see section 24.

(5) However, a person mentioned in paragraph (4)(b) does not ***control*** the entity if the Treasurer is satisfied that, having regard to all the circumstances, the person together with any one or more associates of that person is not in a position to determine the policy of the entity.

(6) Subsection (5) does not require the Treasurer to determine whether a person is in a position to determine the policy of an entity.

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References to foreign persons

(7) If the Treasurer is satisfied that one or more foreign persons together with any one or more associates control an entity under subsection (4), then, in relation to an action taken relating to the entity, a reference to a foreign person is taken, for the purposes of Part 3 (powers of Treasurer), to include a reference to those associates (even if those associates are not foreign persons).

Subdivision D—Regulations

55 Regulations

(1) Regulations made for the purposes of this Part may prescribe any of, or any combination of, the following:
  (a) values of nil;
  (b) different values for different kinds of entities, businesses or land;
  (c) different values for different kinds of foreign persons;
  (d) different values for:
    (i) sensitive businesses generally; or
    (ii) different sensitive businesses for different foreign persons.

Note: Regulations may also provide for indexation (see subsection 139(2)).

(2) The paragraphs and subparagraphs in subsection (1) do not limit:
  (a) each other; or
  (b) the regulations that may be made for the purposes of this Part; or
  (c) subsection 33(3A) of the *Acts Interpretation Act 1901*.

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Division 5—Exemption certificates

56 Simplified outline of this Division

An exemption certificate is a certificate given by the Treasurer that specifies an interest or an interest of a kind that, if acquired by a foreign person, does not give rise to a significant action or a notifiable action. The certificate may also specify conditions that are required to be complied with in order for an acquisition of the interest not to be a significant action or notifiable action.

A person may apply for an exemption certificate under this Division.

The Treasurer must generally make a decision on an application within the period prescribed by the regulations. The regulations may also provide for additional kinds of exemption certificates.

57 Exemption certificates for new dwellings

(1) A person may apply for a certificate under this section if:
  (a) the person or any other person proposes to acquire or has acquired an interest in Australian land; and
  (b) the person or other person proposes to dispose of new dwellings to foreign persons that will be, are being or have been built on that land.

Note: See also Part 6 (fees) and section 135 (manner of notification and application).

(2) The Treasurer may give a certificate if the Treasurer is satisfied that the disposal of the new dwellings to foreign persons is not contrary to the national interest.

(3) The certificate must specify:
  (a) the person (who may not yet be incorporated or established) to whom the certificate relates; and

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(b) the interest to which the certificate relates.

Note: For other things that the certificate may specify, see section 60.

58 Exemption certificates for foreign persons

(1) A foreign person may apply for a certificate under this section if the foreign person or any other foreign person proposes to acquire one or more kinds of interests in Australian land.

Note: See also Part 6 (fees) and section 135 (manner of notification and application).

(2) The Treasurer may give a certificate if the Treasurer is satisfied that acquisitions of those kinds of interests by that foreign person is not contrary to the national interest.

(3) The certificate must specify:

(a) the person (who may not yet be incorporated or established) to whom the certificate relates; and

(b) the kinds of interests in Australian land to which the certificate relates.

Note: For other things that the certificate may specify, see section 60.

59 Exemption certificates for established dwellings

(1) A foreign person may apply for a certificate under this section if the foreign person or any other foreign person proposes to acquire an interest in an established dwelling.

Note: See also Part 6 (fees) and section 135 (manner of notification and application).

(2) The Treasurer may give a certificate if the Treasurer is satisfied that the acquisition of the interest by that foreign person is not contrary to the national interest.

(3) The certificate must specify:

(a) the person to whom the certificate relates; and

(b) the interest to which the certificate relates.

Note: For other things that the certificate may specify, see section 60.

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60 Other matters that may be specified by exemption certificates

(1) An exemption certificate may specify:

(a) one or more conditions; and

(b) a period during which the certificate is in force; and

(c) any other matter.

Note 1: For offences and civil penalties for failing to comply with a condition, see Part 5.

Note 2: An example of a condition that may be specified in an exemption certificate is a condition requiring that an interest or kind of interest be acquired in land within a specified area.

(2) One exemption certificate may deal with more than one interest or kind of interest.

61 Time limit for making decisions on exemption certificates

(1) If a person applies for an exemption certificate, the Treasurer must make a decision whether to grant the application before the end of the following period:

(a) the period prescribed by the regulations;

(b) if the person requests in writing the Treasurer to extend the period—the period as so extended.

Note: For withdrawal of applications, see section 136.

Giving exemption certificates

(2) If the Treasurer decides to grant the application, the exemption certificate:

(a) must be given to the person before the end of 10 days after the decision is made; and

(b) may be given to the person at an address (including an electronic address) specified in the application by the person as the address for service of notices relating to the application.

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Failure to make decision or give exemption certificate

(3) The Treasurer is taken to have given, in accordance with subsection (2), an exemption certificate (without specifying conditions) of the kind applied for if the Treasurer does not:

(a) make a decision before the end of the period mentioned in subsection (1); or

(b) if the Treasurer makes a decision before the end of the period—give the person the exemption certificate in accordance with subsection (2).

(4) The exemption certificate is taken to have specified:

(a) the person to whom the certificate relates; and

(b) the interests or kinds of interests to which the certificate relates; and

(c) the period during which the certificate is in force;

in accordance with the information specified in the application.

62 Variation or revocation of exemption certificates

(1) The Treasurer may vary or revoke an exemption certificate given to a person if the Treasurer is satisfied that the variation or revocation is not contrary to the national interest.

(2) A variation may be made on application in writing by the person or on the Treasurer's own initiative.

Note: See also Part 6 (fees) and section 135 (manner of notification and application).

(3) Subsection 33(3) of the *Acts Interpretation Act 1901* does not apply in relation to a power under this Subdivision to give an exemption certificate.

(4) Subsection (1) does not apply to an exemption certificate that is taken to have been given under section 61.

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63 Exemption certificates provided for by the regulations

The regulations may provide for and in relation to additional kinds of certificates given by the Treasurer.

Note: The regulations may provide, in relation to exemption certificates in force under regulations made for the purposes of this section, that an action of a specified kind is not a ***significant action*** or a ***notifiable action*** (see subsections 45(3) and 49(2)).

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Division 6—Entities whose securities are stapled and entities operating on a unified basis

64 Simplified outline of this Division

This Division deals with the treatment of entities whose securities are stapled and entities operating on a unified basis. In certain circumstances, if any of those entities are foreign or not carrying on an Australian business, they are treated as if they were Australian entities or carrying on an Australian business. Consequently, an action taken in relation to those entities may be a significant action or a notifiable action.

65 Entities whose securities are stapled and entities operating on a unified basis

(1) This section applies if:

(a) either:

(i) the securities in an entity can only be transferred together with securities in one or more other entities; or

(ii) an entity has entered an agreement with one or more other entities resulting in the entities being under a legal obligation to operate on a unified basis; and

(b) a person takes an action in relation to one of the entities (the ***target***) mentioned in paragraph (a); and

(c) the target is not:

(i) an Australian entity; or

(ii) an entity carrying on an Australian business; or

(iii) the holding entity of such an entity;

as is required for the action to be a significant action or a notifiable action; and

(d) there is at least one other entity mentioned in paragraph (a) that is an entity of a kind mentioned in subparagraph (c)(i), (ii) or (iii).

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Note: Entities in a dual listed company arrangement are examples of entities that are under a legal obligation to operate on a unified basis.

(2) For the purposes of this Act, the target is taken to be the same kind of entity as the entity mentioned in paragraph (d).

Example: A foreign person acquires interests in securities in the target (see paragraph 40(2)(b)). The target's securities are stapled to securities in another entity. The other entity is a relevant entity that carries on an Australian business (see subparagraph 40(4)(a)(i)). The target is taken to be a relevant entity that carries on an Australian business.

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Part 3—Powers of Treasurer

Division 1—Simplified outline of this Part

66 Simplified outline of this Part

This Part deals with the powers that the Treasurer has if a significant action is proposed to be taken or has been taken.

The Treasurer may be aware of the significant action because a foreign person was required to give a notice under section 81. Alternatively, a foreign person might choose to give a notice despite not being required to do so.

If a significant action is proposed to be taken, the Treasurer may prohibit the action. The Treasurer may make an interim order before deciding whether to make an order prohibiting a significant action.

If a significant action has been taken, the Treasurer may order that the action be undone (for example, by requiring an acquisition to be disposed of).

Instead of making an order, the Treasurer may give a notification (called a no objection notification) stating that the Commonwealth does not object to an action. The Treasurer may impose conditions on a significant action.

If the Treasurer is given a notice that a significant action is proposed to be taken, the Treasurer must make a decision under this Part within a certain period (generally, within 30 days of receiving the notice, or within an additional period of up to 90 days from the registration of an interim order). A person must not take the action during this period unless the person is given a no objection notification.

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In addition, if a foreign person is given a no objection notification relating to a significant action, and the foreign person takes the action in accordance with the notification, the Treasurer is prevented from using the powers under this Part in relation to the action. (This limitation does not apply if foreign persons or actions are not specified in the notification.)

A person who fails to comply with an order or notification under this Part may commit an offence or be liable to a civil penalty.

Under section 113, a fee may be payable in relation to orders or notifications given under this Part.

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Division 2—Powers of Treasurer

Subdivision A—Orders

67 Order prohibiting proposed significant actions

(1) The Treasurer may, by notifiable instrument, make an order under subsection (2) if the Treasurer is satisfied that:

(a) a significant action is proposed to be taken; and

(b) taking the significant action would be contrary to the national interest.

Note: See also section 77 (time limit on making orders and decisions) and Parts 5 (offences and civil penalties) and 6 (fees).

(2) The Treasurer may make an order in accordance with the following table.

Powers of Treasurer to prohibit proposed significant actions

Item	If the significant action is …	the Treasurer may make an order prohibiting …
1	to acquire a direct interest in an Australian entity that is an agribusiness, or an interest in securities in an entity	the whole or a part of the proposed acquisition.
2	to issue securities in an entity	the whole or a part of the proposed issue of the securities.
3	to enter an agreement mentioned in paragraph 40(2)(d)	entering the proposed agreement.
4	to alter a constituent document of an entity as mentioned in paragraph 40(2)(e)	the proposed alteration.
5	to acquire a direct interest in an Australian business that is an agribusiness, or an interest in assets of an Australian business	the whole or a part of the proposed acquisition.

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Powers of Treasurer to prohibit proposed significant actions		
Item	**If the significant action is …**	**the Treasurer may make an order prohibiting …**
6	to enter a significant agreement with an Australian business	entering the proposed agreement.
7	to terminate a significant agreement with an Australian business	the termination of the existing agreement.
8	to acquire an interest in Australian land	the proposed acquisition.
9	to take any significant action prescribed by regulations made for the purposes of section 44	any thing prescribed by regulations made for the purposes of this item.

(3) If the Treasurer makes an order under subsection (2), the Treasurer may, by notifiable instrument, also make an order in accordance with the following table.

Additional orders		
Item	**If the significant action is …**	**the Treasurer may also make an order …**
1	to acquire a direct interest in an Australian entity that is an agribusiness, or an interest in securities in an entity	directing a specified foreign person (whether alone or with specified associate or class of associates) not to: (a) increase the proportion of the total voting power, or the total potential voting power, in the entity that the person is in a position to control (or increase that proportion beyond a specified proportion); or (b) increase the proportion of interests in issued securities in the entity that the person holds (or increase that proportion beyond a specified proportion).
2	to acquire a direct interest in an	directing a specified foreign person

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Additional orders		
Item	**If the significant action is …**	**the Treasurer may also make an order …**
	Australian business that is an agribusiness, or an interest in assets of an Australian business	(whether alone or with specified associate or class of associates): (a) not to acquire any interests in assets of that business; or (b) to acquire any such interests only to a specified extent.
3	to acquire an interest in Australian land	directing a specified foreign person (whether alone or with specified associate or class of associates): (a) not to acquire any interests in the land or other thing concerned; or (b) to acquire any such interests only to a specified extent.

68 Interim orders

(1) For the purpose of considering whether to make an order under section 67, the Treasurer may, by notifiable instrument, make an order, under this section, of the kind that he or she may make under that section as if that section had applied.

Note: See also section 77 (time limit on making orders and decisions) and Parts 5 (offences and civil penalties) and 6 (fees).

(2) An order made under this section must specify the period during which the order has effect. The period must not be more than 90 days.

Note: The period does not start until the order is registered on the Federal Register of Legislation (see paragraph 72(2)(b)).

69 Disposal orders

(1) The Treasurer may, by notifiable instrument, make an order under subsection (2) if the Treasurer is satisfied that:

(a) a significant action has been taken; and

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(b) the result of the significant action is contrary to the national interest.

Note: See also sections 70 (limitation on making disposal orders) and 77 (time limit on making orders and decisions) and Parts 5 (offences and civil penalties) and 6 (fees).

(2) The Treasurer may make an order in accordance with the following table.

Powers of Treasurer to require disposal of interests

Item	If the significant action was …	the Treasurer may make an order directing …
1	to acquire a direct interest in an Australian entity that is an agribusiness, or an interest in securities in an entity	the person who acquired the interest to dispose of the interest within a specified period to one or more persons who are not associates of the person.
2	to enter an agreement mentioned in paragraph 40(2)(d)	specified persons to do within a specified period, or refrain from doing, specified acts or acts of a specified kind.
3	to alter a constituent document of an entity as mentioned in paragraph 40(2)(e)	specified persons to do within a specified period, or refrain from doing, specified acts or acts of a specified kind.
4	to acquire a direct interest in an Australian business that is an agribusiness, or an interest in assets of an Australian business	the person who acquired the interest to dispose of the interest within a specified period to one or more persons who are not associates of the person.
5	to enter a significant agreement with an Australian business	specified persons to do within a specified period, or refrain from doing, specified acts or acts of a specified kind.
6	to terminate a significant agreement with an Australian business	specified persons to do within a specified period, or refrain from doing, specified acts or acts of a

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Powers of Treasurer to require disposal of interests		
Item	**If the significant action was …**	**the Treasurer may make an order directing …**
		specified kind.
7	to acquire an interest in Australian land	the person who acquired the interest to dispose of that interest within a specified period to one or more persons who are not associates of the person.
8	to take any significant action prescribed by regulations made for the purposes of section 44	a specified person to do a thing prescribed by regulations made for the purposes of this item.

Orders made under table item 7

(3) Without limiting item 7 of the table in subsection (2):

(a) a foreign person is taken to have acquired an interest in Australian land if the person becomes (with or without the knowledge of the person) a beneficiary in a trust that consists of or includes the interest; and

(b) if the trust is a discretionary trust—a reference to the disposal of the interest of the foreign person is a reference to the disposal of any assignable benefits in relation to that trust that may ultimately vest in that foreign person.

Orders made under table items 2, 3, 5 or 6

(4) An order under any of items 2, 3, 5 or 6 of the table in subsection (2) may be made only for the purpose of:

(a) restoring the control of the entity or business as closely as possible to the position in which it was before the significant action was taken; or

(b) preventing the occurrence of a change in control of the entity or business.

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(5) Before the end of a period specified in an order made under any of items 2, 3, 5 or 6 of the table in subsection (2) (or that period as extended under a previous application of this subsection), the Treasurer may, in writing, extend the period. The order has effect as if the period as extended had been specified in the order.

70 Limitation on making disposal orders

(1) This section applies if:

(a) a person is given a no objection notification specifying one or more significant actions; and

(b) for a decision to which paragraph 74(1)(a) or section 75 applied—the actions specified in the notification were taken; and

(c) in any case, both of the following apply:

(i) either the period specified under section 76 in the notification has not ended or the actions were taken before the end of the period specified in the notification;

(ii) the foreign persons who took the actions were specified in the notification.

(2) The Treasurer may make an order under section 69 (disposal orders) in relation to the actions only if:

(a) the person is convicted of an offence against section 87 in relation to a condition included in the notification; or

(b) an order is made under section 19B of the *Crimes Act 1914* in relation to the person in respect of such an offence; or

(c) a civil penalty order is made against the person under the Regulatory Powers Act in relation to a contravention of section 93, 96 or 97 of this Act relating to a condition included in the notification.

Note: The Treasurer may make an order under this Subdivision in relation to:

(a) a significant action that is not specified in the notification but is covered by the same agreement that covered the actions mentioned in subsection (1); or

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(b) a foreign person who is not specified in the notification but who took significant actions covered by the same agreement that covered the actions mentioned in subsection (1).

71 Variation and revocation of orders

(1) The Treasurer may vary or revoke an order under this Subdivision at any time if:
  (a) the Treasurer is satisfied that the variation or revocation is not contrary to the national interest; and
  (b) for a variation:
    (i) the person consents to the variation; or
    (ii) the Treasurer is satisfied that the variation does not disadvantage the person.

(2) Subsection 33(3) of the *Acts Interpretation Act 1901* does not apply in relation to a power under this Subdivision to make an order.

72 Registration and commencement of orders

Registration of orders

(1) An order made by the Treasurer under this Subdivision must be:
  (a) in writing; and
  (b) registered on the Federal Register of Legislation within 10 days after it is made.

When an order commences

(2) An order under this Subdivision commences:
  (a) for an order under subsection 67(3) (additional orders) or 69 (disposal orders)—on the day specified in the order that is at least 30 days after the order is registered; and
  (b) for any other order—on the day the order is registered.

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73 Actions of more than one kind

If a single action is covered by more than one of the following (because an action is an action of more than one kind):

(a) paragraph 40(2)(a), (b), (c), (d) or (e);

(b) paragraph 41(2)(a), (b) or (c);

(c) paragraph 43(a);

(d) a provision of regulations made for the purposes of section 44;

the Treasurer may make any of the orders under this Subdivision that he or she could make in relation to the single action.

Subdivision B—Other powers of Treasurer

74 No objection notification imposing conditions

Application of this section

(1) This section applies if:

(a) the Treasurer is satisfied that a significant action is proposed to be taken (whether or not the Treasurer was given a notice relating to the action); or

(b) both of the following apply:

(i) the Treasurer is satisfied that a significant action has been taken;

(ii) the Treasurer was not given a notice relating to the action before the action was taken; or

(c) all of the following apply:

(i) the Treasurer is satisfied that a significant action has been taken;

(ii) the Treasurer was given a notice relating to the action before the action was taken;

(iii) the action was taken before the day mentioned in section 82.

Note: See also sections 70 (limitation on making disposal orders), 76 (content of no objection notification) and 77 (time limit on making

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orders and decisions) and Parts 5 (offences and civil penalties) and 6 (fees).

Imposition of conditions

(2) The Treasurer may:

(a) decide that the Commonwealth has no objection to the action if one or more of the following conditions were imposed:

(i) for paragraph (1)(a)—a condition that the Treasurer is satisfied is necessary to ensure the action, if taken, will not be contrary to the national interest;

(ii) for paragraphs (1)(b) and (c)—a condition that the Treasurer is satisfied is necessary to ensure that the action is not contrary to the national interest; and

(b) notify the person, in writing (the ***no objection notification***), of the conditions.

(3) The no objection notification:

(a) must be given before the end of 10 days after the decision is made; and

(b) if a notice relating to the action was given—may be given to the person at an address (including an electronic address) specified in that notice as the address for service of notices relating to the action.

Variation and revocation of conditions

(4) The Treasurer may (subject to subsection (6)) vary a no objection notification given to a person by:

(a) revoking a condition; or

(b) imposing a new condition; or

(c) varying an existing condition; or

(d) varying the information specified under section 76;

if the Treasurer is satisfied that the variation is not contrary to the national interest.

(5) The variation may be made on the Treasurer's own initiative.

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Note: The variation may also be made on application by the person (see subsection 76(6)).

(6) The Treasurer may vary a no objection notification given to a person by imposing a new condition or varying an existing condition only if:

(a) the person consents to the new condition or the variation; or

(b) the Treasurer is satisfied that the new condition or variation does not disadvantage the person.

Statements in notices

(7) For the purposes of this section:

(a) a notice relating to an action stating that a person has a right (including a right under an option) to acquire interests in securities, assets or Australian land is taken to be a statement that the person proposes to acquire the interests in the securities, assets or land; and

(b) a notice relating to an action stating that a person proposes to acquire a right (including a right under an option) to acquire an interest in a security, asset or Australian land is taken to be a statement that the person proposes to exercise that right.

Effect of notification on later actions

(8) If:

(a) a person gives a notice to the Treasurer relating to more than one significant action proposed to be taken in relation to an entity or business; and

(b) the Treasurer is satisfied that the actions would result in a change in control of the entity or business; and

(c) the Treasurer gives a no objection notification to the person under this section in relation to the actions; and

(d) not all of the actions are taken; and

(e) the person gives a later notice to the Treasurer relating to a later action that is proposed to be taken in relation to the entity or business;

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the giving of the no objection notification does not prevent the Treasurer from determining that there has been or will be a change in control of the entity or business as a result of the later action.

75 No objection notification not imposing conditions

(1) This section applies if:

(a) the Treasurer receives a notice that a person proposes to take an action; and

(b) the Treasurer is satisfied that the action is covered by:

(i) subsections 40(2) and (3), and whichever of subsection 40(4) or (5) applies (meaning of ***significant action***—entities); or

(ii) subsections 41(2) and (3) and subsection 41(4) (if it applies) (meaning of ***significant action***—business); or

(iii) section 43 (meaning of ***significant action***—land); or

(iv) regulations made for the purposes of section 44 (meaning of ***significant action***—actions prescribed by the regulations), disregarding any conditions prescribed by the regulations in relation to a change in control.

Note 1: See also sections 76 (content of no objection notification) and 77 (time limit on making orders and decisions) and Parts 5 (offences and civil penalties) and 6 (fees).

Note 2: This section disregards whether there has been a change in control.

(2) The Treasurer may:

(a) decide that the Commonwealth has no objection to the action; and

(b) notify the person, in writing (the ***no objection notification***), of the decision.

(3) The no objection notification:

(a) must be given before the end of 10 days after the decision is made; and

(b) may be given to the person at an address (including an electronic address) specified in the notice relating to the

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action as the address for service of notices relating to the action.

Statements in notices

(4) For the purposes of this section:

(a) a notice relating to an action stating that a person has a right (including a right under an option) to acquire interests in securities, assets or Australian land is taken to be a statement that the person proposes to acquire the interests in the securities, assets or land; and

(b) a notice relating to an action stating that a person proposes to acquire a right (including a right under an option) to acquire an interest in a security, asset or Australian land is taken to be a statement that the person proposes to exercise that right.

Effect of notifications on later actions

(5) A notification given under this section in relation to an action taken relating to an entity or business does not prevent the Treasurer from determining later whether there has been a change in control of the entity or business.

76 Content of notification

(1) A no objection notification given to a person under section 74 or 75 must specify the following:

(a) the one or more actions to which the notification relates;

(b) the one or more foreign persons to which the notification relates;

(c) a requirement that the actions to which the notification relates, if taken, must be taken before the end of a specified period after the day the notification is given.

(2) The no objection notification may specify a foreign person by specifying:

(a) a foreign person that:

(i) is not yet incorporated; or

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(ii) is a trustee of a trust that is not yet established; and

(b) the way in which the foreign person is to be incorporated or the trust is to be established.

(3) A foreign person is taken not to be specified in a no objection notification if:

(a) the notification specified the foreign person under subsection (2) before the foreign person was incorporated or the trust was established; and

(b) the foreign person is not incorporated or the trust is not established in the way specified in the notification.

Note: The protection under section 70 from disposal orders applies to a foreign person only if the foreign person is specified in a no objection notification.

(4) The period mentioned in paragraph (1)(c) is:

(a) the period prescribed by the regulations; or

(b) if the Treasurer is satisfied that a longer period is not contrary to the national interest—that longer period.

(5) A single notification may include a no objection notification under each of sections 74 and 75 in relation to different actions.

Variation of no objection notification

(6) A person given a no objection notification may apply to the Treasurer for a variation of the notification (including after the action specified in the notification is taken).

Note: See also Part 6 (fees) and section 135 (manner of application).

(7) An application for an extension of a period specified in a no objection notification must be made 2 months before the end of the period.

(8) The Treasurer may vary a no objection notification if the Treasurer is satisfied that the variation is not contrary to the national interest.

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Division 3—Provisions relating to powers of Treasurer

77 Time limit on making orders and decisions

Application of this section

(1) This section applies if the Treasurer receives a notice from a person stating that a significant action (including a significant action that is a notifiable action) is proposed to be taken.

Note 1: If a fee is payable by a person under section 113, the notice is taken not to have been given until the fee has been paid, waived or remitted (see section 114).

Note 2: For withdrawal of notices, see section 136.

Time limit on making orders or decisions

(2) The Treasurer must not make an order or decision under Division 2 relating to the action if:

(a) the decision period ends; and

(b) the person has not taken the action by the end of the decision period; and

(c) either:

(i) the Treasurer has not made such an order or decision relating to the action by the end of the decision period; or

(ii) if the Treasurer has made such an order or decision by the end of the decision period—the Treasurer has not registered the order in accordance with section 72 or given a notification in accordance with subsection 74(3) or 75(3).

Note: For the definition of ***decision period***, see subsection (5) of this section.

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Time limit on making orders or decisions after interim orders made

(3) If the Treasurer makes an interim order relating to the significant action, the Treasurer must not make an order under section 67 or 69 or a decision under section 74 or 75 relating to the action if:

(a) the Treasurer makes the interim order before the end of the decision period; and

(b) the interim order is registered in accordance with section 72; and

(c) the period specified in the interim order ends; and

(d) by the end of that period, the Treasurer has not:

(i) made an order under section 67 or 69 relating to the action and registered the order in accordance with section 72; or

(ii) made a decision and given a no objection notification relating to the action in accordance with section 74 or 75; and

(e) the person has not taken the action by the end of that period.

Notice given under section 133

(4) If a notice is given to a person under section 133 requiring a person to give information or produce a document, a decision period, or a period specified in an interim order, does not include any day in the period:

(a) beginning on the day the notice is given; and

(b) ending on the day the person gives the information or produces the document in accordance with the notice.

*Meaning of **decision period***

(5) A ***decision period*** is:

(a) the period of 30 days after the day the Treasurer receives a notice from a person stating that a significant action (including a significant action that is a notifiable action) is proposed to be taken; or

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(b) if, before the end of a decision period (including a decision period as extended under this paragraph), the person requests in writing the Treasurer to extend the period—the period as so extended.

78 Anti-avoidance

(1) This section applies if:

(a) one or more persons enter into, begin to carry out or carry out a scheme; and

(b) the Treasurer is satisfied that any of the persons who entered into, began to carry out or carried out all or any part of the scheme did so for the sole or dominant purpose of avoiding the application of any provision of this Act in relation to one or more persons (whether those persons are the same as the persons mentioned in paragraph (a)); and

(c) all or part of the scheme has achieved, or (apart from this section) would achieve, that purpose.

Note: For the definition of ***scheme***, see section 4.

(2) The Treasurer may (subject to subsection (3)) make any order or decision under Division 2 that the Treasurer would have been able to make if all or part of the scheme had not achieved that purpose.

(3) The Treasurer must not make an order prohibiting a person from doing anything that has already been done by the person before the order is made.

79 Persons involved in avoidance taken to be associates

(1) The Treasurer may make an order under subsection (2) if:

(a) the Treasurer makes an order under section 78 (anti-avoidance) in relation to more than one person; and

(b) the Treasurer is satisfied that not making an order under subsection (2) is contrary to the national interest.

(2) The Treasurer may make an order specifying that some or all of the persons to which the order under section 78 relates are taken to be

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associates of each other for the purposes of this Act or for specified purposes.

(3) An order under subsection (2) must specify the period during which the order is in force.

Effect of order

(4) An order under subsection (2) has effect according to its terms.

Order not a legislative instrument

(5) An order under subsection (2) is not a legislative instrument.

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Part 4—Notice of notifiable actions and significant actions

80 Simplified outline of this Part

A foreign person who proposes to take a notifiable action must give a notice to the Treasurer before taking the action.

If such a notice is given by a foreign person, or if a foreign person chooses to give a notice of a significant action despite not being required to do so, the foreign person must not take the action for a certain period unless the foreign person is given a no objection notification. Generally, the period is 40 days from receiving the notice, or up to 90 days from the registration of an interim order. The person may be prevented from taking the action by an order under Part 3.

Unlike for other parts of this Act, if an action is taken by entering an agreement, the action is taken for the purposes of this Part only when the provisions in the agreement become binding on the person (see subsections 15(4) and (5)).

A foreign person who fails to comply with this Part may commit an offence or be liable to a civil penalty.

Under section 113, a fee is payable in relation to notices given under section 81 and notices that a foreign person chooses to give.

81 Compulsory notice of notifiable actions

(1) A foreign person who proposes to take a notifiable action must give a notice to the Treasurer before taking the action.

(2) If a person takes an action by entering an agreement, the notice must deal with each notifiable action covered by the agreement.

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Note: See also subsections 15(4) and (5) (provisions of agreements that are not currently binding), Parts 5 (offences and civil penalties) and 6 (fees) and section 135 (manner of notification and application).

82 Limitation on taking significant actions after notice given

(1) This section applies in relation to a foreign person who gives a notice to the Treasurer stating that a significant action (including a significant action that is a notifiable action) is proposed to be taken.

Note: A notice might be given under section 81 or because a foreign person chooses to give a notice despite not being required to do so.

(2) The foreign person must not take the action before the earliest of the following:

(a) the day that is 10 days after the end of the decision period mentioned in section 77;

(b) if an interim order is made—the end of the period specified in the order;

(c) the day a no objection notification is given to the person.

Note 1: See also Part 5 (offences and civil penalties).

Note 2: If a person takes an action by entering an agreement, the action is not taken until the agreement is binding on the person (see subsections 15(4) and (5)).

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Part 5—Offences and civil penalties

Division 1—Simplified outline of this Part

83 Simplified outline of this Part

A person may commit an offence or contravene a civil penalty provision if the person:

(a) fails to give a notice under section 81 before taking a notifiable action; or

(b) takes a significant action before the end of the period in section 82; or

(c) contravenes an order under Part 3; or

(d) contravenes a condition in a no objection notification or an exemption certificate.

There are additional civil penalties in relation to residential land. Some of these penalties may be calculated by reference to the market value of, or consideration for, the acquisition of the interest in the residential land or the capital gain from disposing of the interest.

Part 2.4 of the *Criminal Code*, which among other things extends criminal responsibility to those who attempt to commit an offence or incite another person to commit an offence, applies to offences against this Act. A similar provision for civil penalty provisions is found in section 92 of the Regulatory Powers Act, and applies to civil penalty provisions in this Act.

Generally, the penalty for bodies corporate is 5 times the amount for individuals (see section 4B of the *Crimes Act 1914* and subsection 82(5) of the Regulatory Powers Act).

An officer of a corporation who authorises or permits the corporation to commit an offence or contravene a civil penalty

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provision may also commit an offence or contravene a civil penalty provision. Similarly, an officer of a corporation may contravene a civil penalty provision by failing to prevent a contravention of the civil penalty provision by the corporation.

Civil penalty orders may be sought and infringement notices issued under the Regulatory Powers Act.

A charge on Australian land may apply for unpaid penalties under this Act.

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Division 2—Offences

84 Failing to give notice

A person commits an offence if:

(a) the person is a foreign person; and

(b) the person takes an action; and

(c) the action is a notifiable action; and

(d) a notice is not given under section 81 in relation to the action before the action is taken.

Note: If a person takes an action by entering an agreement, the action is not taken until the agreement is binding on the person (see subsections 15(4) and (5)).

Penalty: Imprisonment for 3 years, or 750 penalty units, or both.

85 Taking significant action before end of period

A person commits an offence if:

(a) the person is a foreign person; and

(b) the person gives a notice to the Treasurer stating that a significant action (including a significant action that is a notifiable action) is proposed to be taken; and

(c) the person takes the action; and

(d) the action is taken before the day mentioned in section 82; and

(e) if a change in control is required for the action to be a significant action—there is a change in control as a result of the action.

Note 1: If a person takes an action by entering an agreement, the action is not taken until the agreement is binding on the person (see subsections 15(4) and (5)).

Note 2: A notice might be given under section 81 or because a foreign person chooses to give a notice despite not being required to do so.

Penalty: Imprisonment for 3 years, or 750 penalty units, or both.

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86 Contravening orders under Part 3

A person commits an offence if:

(a) a person engages in conduct; and

(b) the conduct contravenes an order made under Part 3.

Penalty: Imprisonment for 3 years, or 750 penalty units, or both.

87 Contravening conditions

A person commits an offence if:

(a) either:

(i) the person is given a no objection notification under section 74 (no objection notification imposing conditions) relating to a significant action; or

(ii) the person is specified in an exemption certificate; and

(b) the notification or certificate includes a condition; and

(c) the person engages in conduct; and

(d) the conduct contravenes the condition.

Penalty: Imprisonment for 3 years, or 750 penalty units, or both.

88 Failing to advertise new dwellings

(1) A person (the ***developer***) commits an offence if:

(a) the developer is specified in an exemption certificate given under section 57 in relation to an interest in Australian land on which a new dwelling will be, is being or has been built; and

(b) the developer disposes of an interest in the dwelling to a foreign person; and

(c) the certificate includes a condition requiring the sale of the dwelling to be advertised (however described) in Australia; and

(d) at the time the foreign person acquires the interest, the dwelling has not been advertised in accordance with the condition.

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Penalty: Imprisonment for 3 years, or 750 penalty units, or both.

(2) Paragraph (1)(c) does not limit where the sale of a new dwelling may otherwise be advertised.

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Division 3—Civil penalties

Subdivision A—Civil penalties relating to significant actions generally

89 Contravening orders under Part 3

A person must not contravene an order made under Part 3.

Civil penalty: 250 penalty units.

Subdivision B—Civil penalties relating to actions (except in relation to residential land)

90 This Subdivision does not apply to actions relating to interests in residential land

This Subdivision does not apply in relation to a significant action or notifiable action relating to an interest in residential land.

91 Failing to give notice

A foreign person who proposes to take a notifiable action must give a notice under section 81 before taking the action.

Note: If a person takes an action by entering an agreement, the action is not taken until the agreement is binding on the person (see subsections 15(4) and (5)).

Civil penalty: 250 penalty units.

92 Taking significant action before end of period

A foreign person who proposes to take a significant action must not take the action before the day mentioned in section 82 if:

(a) the person gives a notice to the Treasurer stating that the action is proposed to be taken; and

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(b) if a change in control is required for the action to be a significant action—the action would result in a change in control.

Note 1: If a person takes an action by entering an agreement, the action is not taken until the agreement is binding on the person (see subsections 15(4) and (5)).

Note 2: A notice might be given under section 81 or because a foreign person chooses to give a notice despite not being required to do so.

Civil penalty: 250 penalty units.

93 Contravening conditions

Conditions in no objection notifications

(1) A person who is given a no objection notification under section 74 (no objection notification imposing conditions) must not contravene a condition specified in the notification.

Civil penalty: 250 penalty units.

Conditions in exemption certificates

(2) A person who is specified in an exemption certificate must not contravene a condition specified in the certificate.

Civil penalty: 250 penalty units.

Subdivision C—Civil penalties relating to residential land

94 Acquisition of interests in residential land

(1) A foreign person who proposes to take a notifiable action that is a residential land acquisition must not take the action if the foreign person has not given a notice relating to the action under section 81.

Note: If a person takes an action by entering an agreement, the action is not taken until the agreement is binding on the person (see subsections 15(4) and (5)).

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(2) A foreign person who gives a notice to the Treasurer, stating that a notifiable action that is a residential land acquisition is proposed to be taken, must not take the action before the day mentioned in section 82.

(3) A person who contravenes subsection (1) or (2) is liable to a civil penalty.

Penalty

(4) The maximum penalty for the contravention is the greater of the following:
  (a) 10% of the consideration for the residential land acquisition;
  (b) 10% of the market value of the interest in the relevant residential land.

Note: ***Consideration*** is defined by the regulations (see section 4).

95 Acquisition of interests in established dwellings

Temporary residents

(1) A foreign person who is a temporary resident must not hold an interest in more than one established dwelling at the same time.

Temporary residents—exceptions

(2) Subsection (1) does not apply if:
  (a) the person is making a genuine attempt to dispose of one or more of the interests; and
  (b) if those interests were disposed of, the person would not contravene subsection (1); and
  (c) the person has been holding an interest in more than one established dwelling for less than 6 months.

(3) Subsection (1) does not apply in relation to an interest in an established dwelling if, at the time the interest was acquired by the person:
  (a) the dwelling was a new dwelling; or

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(b) the person was not prohibited from holding the interest in that dwelling at the same time as holding an interest in another established dwelling.

Note: There is another exception in subsection (5).

Other foreign persons

(4) A foreign person who is not a temporary resident must not acquire an interest in an established dwelling.

General exceptions

(5) Subsections (1), (4) and (8) do not apply in relation to an interest if the interest was, or was of a kind, specified in an exemption certificate or a no objection notification.

Civil penalties

(6) A person who contravenes subsection (1) or (4) is liable to a civil penalty.

(7) The maximum penalty for a contravention of subsection (1) or (4) is the greatest of the following:

(a) the amount of the capital gain that was made or would be made on the disposal of the interest mentioned in subsection (8);

(b) 25% of the consideration for the acquisition of that interest;

(c) 25% of the market value of that interest.

Note: For how to work out the capital gain, see section 98.

(8) The interest is:

(a) if at the time of determining the maximum penalty the foreign person still holds an interest in more than one established dwelling—the interest relating to the established dwelling or dwellings that were most recently acquired by the person; and

(b) otherwise—the interest relating to the established dwelling or dwellings that were most recently disposed of by the person.

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96 Contravening conditions in relation to residential land

Conditions in no objection notifications

(1) A person who is given a no objection notification under section 74 (no objection notification imposing conditions) relating to a residential land acquisition must not contravene a condition (except a condition mentioned in section 97) specified in the notification.

Note: Examples of conditions that may be included in a no objection notification under section 74 are:

(a) a condition requiring a temporary resident to sell an established dwelling when the dwelling ceases to be the temporary resident's principal place of residence; and

(b) a condition prohibiting a temporary resident from leasing an established dwelling; and

(c) a condition requiring a purchaser of vacant land to begin to build a dwelling before a particular time.

Conditions in exemption certificates

(2) A person who is specified in an exemption certificate relating to an interest in residential land must not contravene a condition (other than a condition mentioned in section 97) specified in the certificate.

Civil penalty provisions

(3) A person who contravenes subsection (1) or (2) is liable to a civil penalty.

(4) The maximum penalty for the contravention is the greatest of the following:

(a) the amount of the capital gain that was made or would be made on the disposal of the interest in the relevant residential land;

(b) 25% of the consideration for the acquisition of that interest;

(c) 25% of the market value of that interest.

Note: For how to work out the capital gain, see section 98.

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97 Persons contravening conditions

Conditions in no objection notifications

(1) A person who is given a no objection notification under section 74 (no objection notification imposing conditions) relating to a residential land acquisition must not contravene a condition specified in the notification requiring:

(a) the person to give a notice to the Treasurer when the person acquires or disposes of the interest in the relevant residential land; or

(b) the sale of a dwelling on the relevant residential land to be advertised (however described) in Australia.

Civil penalty: 250 penalty units.

Conditions in exemption certificates

(2) A person who is specified in an exemption certificate relating to residential land must not contravene a condition specified in the certificate requiring:

(a) the person to give a notice to the Treasurer when the person acquires or disposes of the interest in the residential land; or

(b) the sale of a dwelling on the residential land to be advertised (however described) in Australia.

Civil penalty: 250 penalty units.

98 Working out capital gains

For the purposes of this Subdivision, the amount of the capital gain that was made or would be made on the disposal by a person (the ***offender***) of an interest to another person (the ***third party***) is the higher of the following amounts:

(a) if an agreement has been entered into in relation to disposing of the interest to the third party—the difference between:

(i) the consideration for the acquisition by the third party; and

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(ii) the amount for which the offender purchased the interest;

(b) in any case—the difference between:

(i) the market value of the interest; and

(ii) the amount for which the offender purchased the interest.

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Division 4—Miscellaneous

Subdivision A—Application of the Regulatory Powers Act

99 Civil penalty provisions

Enforceable civil penalty provisions

(1) Each civil penalty provision of this Act is enforceable under Part 4 of the Regulatory Powers Act.

Note: Part 4 of the Regulatory Powers Act allows a civil penalty provision to be enforced by obtaining an order for a person to pay a pecuniary penalty for the contravention of the provision.

Authorised applicant

(2) For the purposes of Part 4 of the Regulatory Powers Act, each of the Treasurer and the Commissioner of Taxation is an authorised applicant in relation to the civil penalty provisions of this Act.

(2A) The Treasurer may, in writing, delegate to:

(a) the Secretary; or

(b) an SES employee, or acting SES employee, in the Department;

the Treasurer's powers and functions under Part 4 of the Regulatory Powers Act as an authorised applicant in relation to the civil penalty provisions of this Act.

(2B) The Commissioner of Taxation may, in writing, delegate to an SES employee, or acting SES employee, in the Australian Taxation Office the Commissioner's powers and functions under Part 4 of the Regulatory Powers Act as an authorised applicant in relation to the civil penalty provisions of this Act.

(2C) In exercising powers or performing functions delegated under subsection (2A) or (2B), a delegate must comply with any directions of the delegator.

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Relevant court

(3) For the purposes of Part 4 of the Regulatory Powers Act, each of the following courts is a relevant court in relation to the civil penalty provisions of this Act:
  (a) the Federal Court of Australia;
  (b) the Federal Circuit Court of Australia;
  (c) a Supreme Court of a State or Territory.

Maximum penalties

(4) Subsection 82(5) of the Regulatory Powers Act does not apply in relation to the following civil penalty provisions:
  (a) section 94 (acquisition of interests in residential land);
  (b) section 95 (acquisitions of established dwellings);
  (c) section 96 (contravening conditions relating to residential land);
  (d) subsection 102(2) (liability of officers of corporations authorising or permitting contraventions);
  (e) section 103 (civil penalties for officers of corporations failing to prevent contraventions).

Note: Subsections 94(4), 95(7), 96(4), 102(3) and 103(5) of this Act set the maximum penalties instead of subsection 82(5) of the Regulatory Powers Act.

Extension to external Territories

(5) Part 4 of the Regulatory Powers Act, as it applies in relation to the civil penalty provisions of this Act, extends to every external Territory.

100 Infringement notices

Provisions subject to an infringement notice

(1) The provisions of Subdivision C of Division 3 (civil penalties relating to residential land) are subject to an infringement notice under Part 5 of the Regulatory Powers Act.

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Note: Part 5 of the Regulatory Powers Act creates a framework for using infringement notices in relation to provisions.

Infringement officer

(2) For the purposes of Part 5 of the Regulatory Powers Act, a person appointed under subsection (3) is an infringement officer in relation to the provisions mentioned in subsection (1).

(3) The Secretary may, in writing, appoint a person who holds, or performs the duties of, an APS 6 position, or an equivalent or higher position, within the Department or the Australian Taxation Office.

Relevant chief executive

(4) For the purposes of Part 5 of the Regulatory Powers Act, each of the Secretary and the Commissioner of Taxation is the relevant chief executive in relation to the provisions mentioned in subsection (1).

(4A) The Secretary may, in writing, delegate to an SES employee, or acting SES employee, in the Department the Secretary's powers and functions under Part 5 of the Regulatory Powers Act as the relevant chief executive in relation to the provisions mentioned in subsection (1).

(4B) The Commissioner of Taxation may, in writing, delegate to an SES employee, or acting SES employee, in the Australian Taxation Office the Commissioner's powers and functions under Part 5 of the Regulatory Powers Act as the relevant chief executive in relation to the provisions mentioned in subsection (1).

(4C) In exercising powers or performing functions delegated under subsection (4A) or (4B), a delegate must comply with any directions of the delegator.

(5) Subparagraphs 104(1)(e)(ii) and (iii), and subsection 104(2), of the Regulatory Powers Act do not apply in relation to an infringement notice given in relation to an alleged contravention of:

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(a) for subparagraphs 104(1)(e)(ii) and (iii) of the Regulatory Powers Act—the following provisions of this Act:
  (i) section 94 (acquisition of interests in residential land);
  (ii) section 95 (acquisitions of interests in established dwellings);
  (iii) section 96 (contravening conditions in relation to residential land); and
(b) for subsection 104(2) of the Regulatory Powers Act—the following provisions of this Act:
  (i) section 94 (acquisition of interests in residential land);
  (ii) section 95 (acquisitions of interests in established dwellings);
  (iii) section 96 (contravening conditions in relation to residential land);
  (iv) section 97 (persons contravening conditions).

(6) The amount to be stated in an infringement notice for the purposes of paragraph 104(1)(f) of the Regulatory Powers Act for the alleged contravention of a civil penalty provision mentioned in subsection (1) of this section is:
(a) for a tier 1 infringement notice (see subsection 101(1)):
  (i) given to an individual—12 penalty units; and
  (ii) given to a corporation—60 penalty units; and
(b) for a tier 2 infringement notice (see subsection 101(2)):
  (i) given to an individual—60 penalty units; and
  (ii) given to a corporation—300 penalty units.

Extension to external Territories

(7) Part 5 of the Regulatory Powers Act, as it applies in relation to the provisions mentioned in subsection (1), extends to every external Territory.

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101 Meanings of *tier 1 infringement notice* and *tier 2 infringement notice*

(1) An infringement notice is a ***tier 1 infringement notice*** if:
  (a) the notice relates to an alleged contravention by a person of a civil penalty provision of this Act; and
  (b) the person notified the Commonwealth of conduct that was the same, or substantially the same, as the conduct constituting the alleged contravention; and
  (c) the person notified the Commonwealth before an infringement notice was issued in relation to the conduct constituting the alleged contravention.

(2) An infringement notice is a ***tier 2 infringement notice*** if:
  (a) the notice relates to an alleged contravention by a person of a civil penalty provision of this Act; and
  (b) subsection (1) does not apply in relation to the person and the conduct constituting the alleged contravention.

Subdivision B—Liability of officers of corporations

102 Liability of officers of corporations authorising or permitting contraventions

Offences authorised or permitted by officers

(1) A person commits an offence if:
  (a) the person is an officer of a corporation; and
  (b) the corporation is convicted of an offence against this Act; and
  (c) the person authorised or permitted the commission of the offence by the corporation.

Note: An officer may also be liable to an offence as a result of Part 2.4 of the *Criminal Code* (extensions of criminal responsibility).

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Contraventions of civil penalty provisions authorised or permitted by officers

(2) An officer of a corporation is liable to a civil penalty if:

(a) a civil penalty order under the Regulatory Powers Act is made against the corporation in relation to a contravention of a civil penalty provision of this Act; and

(b) the officer authorised or permitted the contravention of the civil penalty provision by the corporation.

Note: An officer may also be liable to a civil penalty as a result of section 92 of the Regulatory Powers Act (ancillary contravention of civil penalty provisions).

Maximum penalty

(3) The maximum penalty for a contravention of subsection (1) or (2) is the maximum penalty that would apply if the officer had committed the offence mentioned in paragraph (1)(b) or contravened the civil penalty provision mentioned in paragraph (2)(a).

103 Civil penalties for officers of corporations failing to prevent contraventions

(1) An officer of a corporation is liable to a civil penalty if:

(a) the corporation contravenes a civil penalty provision of this Act; and

(b) the officer knew that, or was reckless or negligent as to whether, the contravention would occur; and

(c) the officer was in a position to influence the conduct of the corporation in relation to the contravention; and

(d) the officer failed to take all reasonable steps to prevent the contravention.

(2) The officer was ***reckless*** as to whether the contravention would occur if:

(a) the officer was aware of a substantial risk that the contravention would occur; and

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(b) having regard to the circumstances known to the officer, it was unjustifiable to take the risk.

(3) The officer was ***negligent*** as to whether the contravention would occur if the officer's conduct involved:

(a) such a great falling short of the standard of care that a reasonable person would exercise in the circumstances; and

(b) such a high risk that the contravention would occur;

that the conduct merits the imposition of a pecuniary penalty.

Reasonable steps to prevent contravention

(4) Without limiting this section, in determining whether an officer of a corporation failed to take all reasonable steps to prevent a contravention, a court may have regard to all relevant matters, including:

(a) what action (if any) the officer took directed towards ensuring the following (to the extent that the action is relevant to the contravention):

(i) that the corporation arranges regular professional assessments of the corporation's compliance with civil penalty provisions;

(ii) that the corporation implements any appropriate recommendations arising from such an assessment;

(iii) that the corporation's employees, agents and contractors have a reasonable knowledge and understanding of the requirements to comply with civil penalty provisions in so far as those requirements affect the employees, agents or contractors concerned; and

(b) what action (if any) the officer took when he or she became aware of the contravention.

Maximum penalty

(5) The maximum penalty for the contravention of subsection (1) is the maximum penalty that would apply if the officer had contravened the civil penalty provision mentioned in paragraph (1)(a).

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Subdivision C—Recovering unpaid penalties

104 Creation of charge on land

(1) This section applies in relation to land if:

(a) a court finds that a person has contravened Division 3 of this Part (civil penalties); and

(b) a pecuniary penalty is imposed on the person in relation to the contravention; and

(c) the person has an interest in Australian land covered by subsection (2) that can be registered on a land register; and

(d) either:

(i) the contravention relates to the acquisition of the interest in the land; or

(ii) the Treasurer makes a declaration under section 105 that this section applies in relation to the land.

Note: Subsection (5) contains an exception to this section (proceeds of crime orders).

Kinds of interests covered by this subsection

(2) The interest in Australian land is either:

(a) an interest under a long term lease; or

(b) any other legal or equitable interest (within the ordinary meaning of the term) in Australian land, except:

(i) an interest under a lease (except a long term lease); or

(ii) an interest under a licence; or

(iii) an interest in a mining or production tenement; or

(iv) an interest in an easement; or

(v) an interest giving a right (known as a profit à prendre) to take something off another person's land, or to take something out of the soil of that land; or

(vi) an interest held on trust for another person; or

(vii) an interest of a kind prescribed by the regulations.

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Creation of charge

(3) A charge is created on land to which this section applies to secure the payment of the penalty.

(4) The charge is created at the time:
  (a) if subparagraph (1)(d)(i) applies—the penalty is imposed; or
  (b) if subparagraph (1)(d)(ii) applies—the declaration comes into force.

Exception in relation to proceeds of crime orders

(5) This section does not apply if at the time mentioned in subsection (4):
  (a) a restraining order is in force in relation to the land under Part 2-1 of the *Proceeds of Crime Act 2002*; or
  (b) a forfeiture order is in force in relation to the land under Part 2-2 of that Act; or
  (c) an order (however described) of a kind prescribed by the regulations is in force in relation to the land under a law of the Commonwealth, a State or a Territory.

105 Treasurer's declaration relating to charge

Contravention that does not relate to acquisitions of interests in land

(1) The Treasurer may declare, in writing, that section 104 applies in relation to Australian land in which a person has an interest if:
  (a) paragraphs 104(1)(a) to (c) apply to the person; and
  (b) the contravention mentioned in paragraph 104(1)(a) does not relate to the acquisition of the interest in the land; and
  (c) the Treasurer is satisfied that the declaration is necessary to secure the payment of the penalty mentioned in paragraph 104(1)(b).

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Treasurer's declaration—extending land to which charge applies

(2) The Treasurer may declare, in writing, that section 104 applies in relation to Australian land (the ***additional land***) in which a person has an interest if:

(a) a charge is created under section 104 on other Australian land in which the person has an interest; and

(b) subparagraph 104(1)(d)(i) applies in relation to the charge; and

(c) the Treasurer is satisfied that the declaration in relation to the additional land is necessary to secure the payment of the penalty mentioned in paragraph 104(1)(b).

Content of declaration—generally

(3) A declaration under subsection (1) or (2) must specify:

(a) the period during which the declaration is in force; and

(b) the land to which section 104 applies.

Note: For a person who has more than one interest in Australian land, see subsection (4).

Content of declaration under subsection (1)

(4) For a declaration under subsection (1), if the person has more than one interest in Australian land, the declaration must specify the land to which section 104 applies. The Treasurer may specify more than one area of Australian land only if the Treasurer is satisfied that specifying each of those areas is necessary to secure the payment of the penalty.

Declarations not legislative instruments

(5) A declaration under subsection (1) or (2) is not a legislative instrument.

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106 Effect of charge on land

(1) A charge created on land under section 104 has priority over any other interest in the land (even if the interest has been registered on a land register).

(2) The charge remains in force until:

(a) all of the following amounts are paid:

(i) the penalty mentioned in subsection 104(1);

(ii) any costs of the Commonwealth that the person mentioned in that subsection is ordered to pay by a court;

(iii) any costs incurred by the Commonwealth in relation to recovering the penalty mentioned in that subsection; or

(b) the interest in the land is disposed of under section 109.

(3) To avoid doubt, the charge on the land is not affected by any change in ownership of the land.

Powers of Treasurer

(4) The Treasurer has power, on behalf of the Commonwealth, to do, or authorise the doing of, anything necessary or convenient to obtain the registration of the charge on a land register.

(5) The Treasurer's powers under subsection (4) include:

(a) executing any instrument required to be executed; or

(b) signing any certificate that:

(i) states that a charge is created on land under section 104; and

(ii) specifies the land on which the charge is created.

107 Vesting of interest in land

(1) This section applies in relation to a person's interest in Australian land if:

(a) a charge is created on the land under section 104; and

(b) the following period ends:

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(i) 3 months since the finding mentioned in subsection 104(1) was made by the court;

(ii) any longer period determined in writing by the Treasurer or by the court; and

(c) if subparagraph 104(1)(d)(ii) (charge imposed after Treasurer's declaration) applies in relation to the charge:

(i) the interest is an estate in fee simple in the land or an interest in a long term lease; and

(ii) the person holds the interest alone.

Note: Subsection (4) contains an exception to this section (proceeds of crime orders).

(2) At the end of the period mentioned in paragraph (1)(b):

(a) the interest in the Australian land vests in equity in the Commonwealth but does not vest in the Commonwealth at law until the applicable registration requirements have been complied with; and

(b) the Treasurer has power, on behalf of the Commonwealth, to do anything necessary or convenient to give notice of, or otherwise protect, the Commonwealth's equitable interest in the Australian land; and

(c) the Commonwealth is entitled to be registered on a land register as the owner of that property; and

(d) the Treasurer has power, on behalf of the Commonwealth, to do, or authorise the doing of, anything necessary or convenient to obtain the registration of the Commonwealth as the owner.

(3) The Treasurer's powers under paragraph (2)(d) include:

(a) executing any instrument required to be executed; or

(b) signing any certificate that:

(i) states that land has vested in the Commonwealth under this section; and

(ii) specifies the land that has so vested.

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Exception in relation to proceeds of crime orders

(4) This section does not apply if at the end of the period mentioned in paragraph (1)(b):

(a) a restraining order is in force in relation to the land under Part 2-1 of the *Proceeds of Crime Act 2002*; or

(b) a forfeiture order is in force in relation to the land under Part 2-2 of that Act; or

(c) an order (however described) of a kind prescribed by the regulations is in force in relation to the land under a law of the Commonwealth, a State or a Territory.

108 When the Commonwealth can begin dealing with interests in land

(1) The Treasurer, and persons acting on the Commonwealth's behalf, can dispose of, or otherwise deal with, a person's interest in Australian land that vests under section 107 only after the later of the following times:

(a) if the period provided for lodging an appeal against the finding in relation to the person mentioned in subsection 104(1) has ended without such an appeal having been lodged—the end of that period;

(b) if an appeal against the finding in relation to the person has been lodged—the appeal lapses or is finally determined.

(2) However, such disposals and dealings may occur earlier with the leave of a court and in accordance with any directions of a court.

109 Disposing of interests in land

(1) The Treasurer must, on behalf of the Commonwealth, dispose of an interest in a person's (the ***owner's***) land that vests in the Commonwealth under section 107 as soon as practicable after the time mentioned in section 108.

(2) The Treasurer may give full and effective title to the land free of all other interests, which are extinguished at the time title is given.

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Dealing with the proceeds of sale

(3) The Treasurer must apply the proceeds of the disposal of the interest in the land against:

(a) the amounts mentioned in paragraph 106(2)(a); and

(b) any other penalty that is due and payable to the Commonwealth under this Act by the owner; and

(c) any costs incurred by the Commonwealth in relation to the disposal.

(4) The Treasurer must pay the remainder of the proceeds, if any, to the persons mentioned in subsection (6) in the order in which they appear in that subsection.

Note: Not all of the persons mentioned in subsection (6) may be paid if the proceeds are insufficient.

(5) If the remainder of the proceeds is insufficient to pay:

(a) all of the persons mentioned in paragraph (6)(a); or

(b) after paying all of the persons mentioned in paragraph (6)(a), all of the persons mentioned in paragraph (6)(b);

the Treasurer must pay each person mentioned in that paragraph proportionately.

(6) The persons are as follows:

(a) a person holding a mortgage, charge or other interest over the land if the mortgage, charge or interest:

(i) relates to a debt due by the owner; and

(ii) has been registered on a land register;

(b) if subparagraph 104(1)(d)(i) applies—a person together with whom the owner holds the interest;

(c) the Commonwealth in relation to any other penalty or debt that is due and payable to the Commonwealth by the owner;

(d) the owner.

(7) Nothing in this section affects the right of the Commonwealth to recover penalties by other means.

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110 Exemption from stamp duty and other State or Territory taxes and fees

(1) No stamp duty or other tax or fee is payable under a law of a State or a Territory in respect of the vesting of an interest in Australian land under section 107, or anything connected with the vesting of the interest, if the Treasurer, in writing:

(a) declares that the interest in the land has vested under that section; and

(b) specifies the interest in the land.

(2) An instrument made under subsection (1) is not a legislative instrument.

111 Compensation for acquisition of property

(1) If the operation of this Subdivision would result in an acquisition of property from a person otherwise than on just terms, the Commonwealth is liable to pay a reasonable amount of compensation to the person.

Note: For the definitions of ***acquisition of property*** and ***just terms***, see section 4.

(2) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in a court of competent jurisdiction for the recovery from the Commonwealth of such reasonable amount of compensation as the court determines.

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Part 6—Fees

112 Simplified outline of this Part

Fees are payable under this Part to ensure that foreign persons and others who take action regulated by this Act bear the costs relating to the administration of this Act.

Fees are payable for:

(a) applying for an exemption certificate or a variation of an exemption certificate; and

(b) giving a notice of a notifiable action; and

(c) giving a notice relating to an action that is not a notifiable action; and

(d) applying for a variation of a no objection notification.

The Treasurer is not required to take any action before the fee is paid.

A fee is also payable if the Treasurer makes a decision or order under Part 3 relating to a significant action and a person has not notified the Treasurer of the action.

The amounts of the fees are found in the *Foreign Acquisitions and Takeovers Fees Imposition Act 2015*.

A fee may be waived or remitted.

113 When fees are payable

(1) The person mentioned in column 1 of the following table must pay a fee to the Treasurer in accordance with column 2 of the table.

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When fees are payable		
Item	**Column 1** **This person …**	**Column 2** **must pay a fee …**
1	a person who applies for an exemption certificate	(a) when the application is made; and (b) for a person who is given an exemption certificate under section 57—at the end of each 6 month period covered by subsection (2).
2	a person who applies for a variation of an exemption certificate	when the application is made.
3	a person who gives a notice of a notifiable action under section 81	when the notice is given.
4	a person who gives a notice to the Treasurer of a proposal to take an action that is not a notifiable action	when the notice is given.
5	a person: (a) in relation to whom an order is made under Subdivision A of Division 2 of Part 3; or (b) to whom a no objection notification is given; who did not give to the Treasurer a notice relating to the action specified in the order or notification	before the end of 30 days after the order or notification is given.
6	a person who applies under subsection 76(6) for a variation of a no objection notification	when the application is made.

Note: The amounts of the fees are in Part 2 of the *Foreign Acquisitions and Takeovers Fees Imposition Act 2015*.

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6 monthly fees for developers given exemption certificates under section 57

(2) A person (the ***developer***) who is given an exemption certificate under section 57 must pay a fee for a 6 month period if there were one or more new dwelling acquisitions during the period.

(3) A ***6 month period*** is:

(a) the period of 6 months beginning immediately after the developer is given the certificate; or

(b) each subsequent 6 month period.

(4) A ***new dwelling acquisition*** is an acquisition by a foreign person of an interest in a new dwelling that is covered by the exemption certificate given to the developer.

Debts may be recovered by Treasurer

(5) A fee payable under this Act that does not relate to an application made or a notice given by the person may be recovered by the Treasurer, on behalf of the Commonwealth, as a debt due to the Commonwealth in a court of competent jurisdiction.

114 Requirement for fees to be paid before Treasurer exercises powers

If a fee is payable by a person under section 113 for giving a notice or making an application, then the person is taken not to have given the notice or made the application until:

(a) the fee has been paid; or

(b) the fee has been waived or remitted under section 115.

Note: The notice must also be given in the approved manner (see section 135).

115 Waiver and remission of fees

The Treasurer may, on behalf of the Commonwealth, waive or remit the whole or a part of a fee that is payable under this Act if

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the Treasurer is satisfied that it is not contrary to the national interest to waive or remit the fee.

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Part 7—Record-keeping and confidentiality of information

Division 1—Simplified outline of this Part

116 Simplified outline of this Part

A person must make and keep records relating to:

(a) significant actions, notifiable actions and actions specified in exemption certificates; and

(b) compliance with conditions in no objection notifications and exemption certificates; and

(c) certain disposals of interests in residential land.

The records must be kept for 5 years, except records that relate to conditions which must be kept for 2 years. A person may commit an offence if the person fails to make or keep the records in accordance with Division 2.

Information that is obtained for the purposes of this Act (called protected information) may be disclosed only for authorised purposes. A person who obtains, uses or discloses protected information other than as authorised by this Act may commit an offence.

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Division 2—Record-keeping

117 What records must be made and kept

(1) A person must make and keep records of every act, transaction, event or circumstance relating to the following:

(a) any action taken by the person that is a significant action or notifiable action to the extent that the records are relevant to an order or decision under Part 3;

(b) an action taken by the person that is specified in an exemption certificate;

(c) whether the person is complying with a condition in a no objection notification or an exemption certificate;

(d) the disposal of an interest in residential land by the person if the acquisition of the interest by the person:

(i) was a significant action or notifiable action; or

(ii) would have been a significant action or notifiable action if the action had not been specified in an exemption certificate.

(2) The records must be:

(a) in English, or readily accessible and easily convertible into English; and

(b) such as to enable the acts, transactions, events or circumstances mentioned in subsection (1) to be readily ascertained.

118 Making and keeping records

Records required by section 117 must be kept by a person until the following time:

(a) for paragraphs 117(1)(a) and (b)—5 years after the action is taken by the person;

(b) for paragraph 117(1)(c)—2 years after the condition ceases to apply to the person;

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(c) for paragraph 117(1)(d)—5 years after the interest is disposed of by the person.

119 Offence for failing to make and keep records

(1) A person commits an offence if:

(a) the person is required to make and keep a record under this Division; and

(b) the person does not make or keep the record in accordance with this Division; and

(c) the Treasurer has not notified the person that the person does not need to make or keep the record; and

(d) the person is not a corporation that has been finally dissolved.

Penalty: 30 penalty units.

(2) Subsection (1) is an offence of strict liability.

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Division 3—Confidentiality of information

120 Meaning of *protected information*

(1) Information is ***protected information*** if the information is obtained under, in accordance with or for the purposes of this Act, except:

(a) information specified in an exemption certificate given under:

(i) section 57 (exemption certificates for new dwellings); or

(ii) regulations made for the purposes of section 63; or

(b) subject to subsection (2), information that is:

(i) obtained by a person appointed to a position in the Australian Taxation Office, or a person engaged under the *Public Service Act 1999* who is employed in the Australian Taxation Office; and

(ii) obtained under, in accordance with or for the purposes of this Act as a result of a delegation or subdelegation under section 137, or a request under subsection 138(4).

Note: Information mentioned in paragraph (b) is protected under Division 355 in Schedule 1 to the *Taxation Administration Act 1953*.

(2) If:

(a) information is mentioned in paragraph (1)(b); and

(b) the information is disclosed under Subdivision 355-B in Schedule 1 to the *Taxation Administration Act 1953*; and

(c) the disclosure is made to the Secretary or a person appointed or engaged under the *Public Service Act 1999* who is employed in the Department;

the information mentioned in paragraph (1)(b) is ***protected information*** in relation to further uses, disclosures or records made of the information that arise from the disclosure mentioned in paragraph (b) of this subsection.

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121 Authorisation of disclosures etc. of protected information for the purposes of this Act

(1) A person may make a record of, disclose or otherwise use protected information if:

(a) the person makes the record, or discloses or uses the information, in performing the person's functions or duties, or exercising the person's powers, under this Act; and

(b) in relation to a disclosure—the information is disclosed to a person who is:

(i) a Minister, an officer or an employee of the Commonwealth, a State, the Australian Capital Territory or the Northern Territory; or

(ii) an officer or employee of a Commonwealth, State or Territory body; or

(iii) a person appointed by the Commonwealth for the purposes of this Act.

(2) A person may make a record of, disclose or otherwise use protected information if:

(a) the person obtains the information under subsection (1) or this subsection; and

(b) the person makes the record of, discloses or otherwise uses the information for the purposes for which the information was disclosed to the person; and

(c) in relation to a disclosure by the person—the information is disclosed to a person who is:

(i) a Minister, an officer or an employee of the Commonwealth, a State, the Australian Capital Territory or the Northern Territory; or

(ii) an officer or employee of a Commonwealth, State or Territory body; or

(iii) a person appointed by the Commonwealth for the purposes of this Act.

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122 Authorisation of disclosures to Commonwealth Ministers and Commonwealth entities

Disclosures for the purposes of Acts

(1) A person may disclose protected information to the Minister administering any of the following Acts, or the accountable authority of a Commonwealth entity that deals with the administration of any of the following Acts, for the purposes of administering that Act:

(a) the *Airports Act 1996*;
(b) the *Australian Crime Commission Act 2002*;
(c) the *Australian Prudential Regulation Authority Act 1998*;
(d) the *Australian Securities and Investments Commission Act 2001*;
(e) the *Australian Security Intelligence Organisation Act 1979*;
(f) the *Banking Act 1959*;
(g) the *Corporations Act 2001*;
(h) the *Financial Sector (Shareholdings) Act 1998*;
(i) the *Industry Research and Development Act 1986*;
(j) the *Inspector-General of Intelligence and Security Act 1986*;
(k) the *Insurance Acquisitions and Takeovers Act 1991*;
(l) the *Intelligence Services Act 2001*;
(m) the *Migration Act 1958*;
(n) the *Proceeds of Crime Act 2002*;
(o) the *Qantas Sale Act 1992*;
(p) a taxation law (within the meaning of section 995-1 of the *Income Tax Assessment Act 1997*);
(q) the *Telstra Corporation Act 1991*;
(r) any other law prescribed by the regulations.

Disclosures for the purposes of Ministerial responsibilities

(2) A person may disclose protected information to a Minister responsible for any of the following for the purposes of enabling the Minister to discharge that responsibility:

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(a) agriculture;
(b) industry policy;
(c) investment promotion;
(d) taxation policy;
(e) foreign investment in Australia.

(3) A person may disclose protected information to the Secretary of a Department administered by a Minister responsible for any of the following for the purposes of assisting the Minister to discharge that responsibility:
(a) agriculture;
(b) industry policy;
(c) investment promotion;
(d) taxation policy;
(e) foreign investment in Australia.

123 Authorisation of disclosures relating to law enforcement

A person may disclose protected information to an enforcement body (within the meaning of the *Privacy Act 1988*) if the person reasonably believes the disclosure of the information is reasonably necessary for one or more enforcement related activities (within the meaning of that Act) conducted by or on behalf of the enforcement body.

124 Authorisation of disclosures of periodic aggregate information

A person may disclose protected information if the information:
(a) specifies the matters prescribed by the regulations for the purposes of reporting on the administration of this Act; and
(b) does not identify, and is not reasonably capable of being used to identify, a person.

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125 Authorisation of disclosures of information in the public domain

A person may disclose protected information if the information is, at the time of the disclosure, already in the public domain (except as a result of a contravention of this Division).

126 Authorisation of disclosures where consent or to person who gave information or related entity

Person to whom information relates consents

(1) A person may make a record of, or disclose or otherwise use, protected information if the person to whom the information relates gives written consent.

Person who provided information

(2) A person may disclose protected information if the disclosure is to:
  (a) the person, or an agent of the person, who provided the information under, in accordance with or for the purposes of this Act; or
  (b) an entity that is a member of the same wholly-owned group (within the meaning of the *Income Tax Assessment Act 1997*) as the person mentioned in paragraph (a).

127 Authorisation to use information for purposes of proceedings

(1) A person who obtains protected information may disclose the information to a court or tribunal, or in accordance with an order of a court or tribunal, (whether within or outside Australia) for the purposes of proceedings if:
  (a) the Commonwealth is a party to the proceedings; and
  (b) the Treasurer is satisfied that it is not contrary to the national interest.

Note: A person must not be required to provide information to a court or tribunal (see section 130).

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(2) A person who obtains protected information under, or in accordance with, subsection (1) may make a record of, or disclose or otherwise use, the information for the purposes for which the information was disclosed under that subsection.

128 Offence relating to protected information

A person commits an offence if:

(a) the person obtains information; and

(b) the information is protected information; and

(c) the person makes a record of, discloses or otherwise uses the information; and

(d) the record, disclosure or use is not authorised by this Part.

Note: For an exception for use of information in good faith, see section 129.

Penalty: Imprisonment for 2 years or 120 penalty units, or both.

129 Exception for use of information in good faith

Section 128 does not apply if the person makes a record of, discloses or otherwise uses protected information in good faith:

(a) in performing, or purportedly performing, his or her functions or duties under this Act; or

(b) in exercising, or purportedly exercising, his or her powers under this Act.

Note: A defendant bears an evidential burden in relation to the matters in this section (see subsection 13.3(3) of the *Criminal Code*).

130 No requirement to provide information

A person (whether within or outside Australia) must not, except for the purposes of this Act, be required:

(a) to produce any document in his or her possession; or

(b) to disclose any matter or thing of which he or she had notice;

to a court, tribunal, authority or person having power to require the production of documents or the answering of questions.

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Part 8—Miscellaneous

131 Simplified outline of this Part

This Part contains a number of miscellaneous provisions including the following:

(a) the power of certain courts to preserve interests, and enforce orders and conditions;

(b) the power of the Treasurer to require additional information;

(c) the power of the Treasurer and the Secretary to delegate his or her powers under this Act;

(d) a provision clarifying that a failure to comply with this Act does not invalidate an action;

(e) the requirement for applications and notices to be given in a manner approved by the Secretary;

(f) a regulation-making power.

132 Powers of courts to enforce Treasurer's orders

(1) If a person (the ***offender***) has committed an offence or contravened a civil penalty provision in Part 5, the Federal Court of Australia, the Federal Circuit Court of Australia or the Supreme Court of a State or Territory may, on application by the Treasurer, make any order it thinks fit:

(a) if the contravention was failing to give a notice under section 81, or taking an action before the day mentioned in section 82, in relation to an acquisition of an interest in Australian land—to preserve the interest; or

(b) if the contravention was of an order made under Part 3—to achieve the purpose for which the order was made; or

(c) if the contravention was of a condition of a no objection notification or an exemption certificate—to achieve the

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purpose for which the condition was imposed by the Treasurer.

(2) To avoid doubt, the court may make an order:

(a) whether or not the offender has been convicted of an offence, or a civil penalty order has been made against the offender, in relation to the contravention; and

(b) whether or not the contravention still continues; and

(c) whether or not other proceedings relating to the contravention have been or are to be instituted.

Kinds of orders court may make

(3) Without limiting subsection (1), the court may make any of the following orders.

Kinds of orders court may make

Item	In relation to …	the court may make an order …
1	a change of control of an Australian entity or Australian business or the acquisition of an interest in securities in, or in assets of, an Australian entity	(a) restraining the exercise of any rights attached to securities in, or assets of, the entity or business that are held by the offender; or (b) prohibiting or deferring the payment of any sums due to the offender in respect of such securities or assets; or (c) directing the disposal of such securities or assets; or (d) that any exercise of rights attached to such securities or assets be disregarded; or (e) prohibiting a person from acting as a senior officer of the entity or from being involved in the central management and control of the entity or business; or (f) directing the entity to make such alterations of any of its constituent documents as are specified in the order.
2	a change in the control of a foreign	(a) restraining the exercise of any rights attached to securities held by the foreign entity in an

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Kinds of orders court may make		
Item	**In relation to …**	**the court may make an order …**
	entity or the acquisition of an interest in securities in, or in assets of, a foreign entity	Australian subsidiary; or (b) prohibiting or deferring the payment of any sums due to the foreign entity in respect of securities held by it in an Australian subsidiary; or (c) directing the disposal of securities in, or assets of, an Australian subsidiary of the foreign entity; or (d) directing the disposal of assets of the foreign entity that consist of assets of an Australian business carried on by the foreign entity (whether alone or together with one or more other persons) or prohibiting or deferring the payment of any sums due to the foreign entity in respect of any such assets; or (e) that any exercise of rights attached to securities held by the foreign entity in an Australian subsidiary be disregarded; or (f) that any exercise of rights attached to assets of the foreign entity of a kind mentioned in paragraph (d) be disregarded; or (g) prohibiting a person from acting as a senior officer of, or from being concerned in the central management and control of, an Australian subsidiary of the foreign entity; or (h) directing an Australian subsidiary of the foreign entity to make such alterations of any of its constituent documents as are specified in the order.
3	the acquisition of an interest in Australian land	(a) restraining the exercise of any rights attached to any interest held by the offender in the land or other thing concerned; or (b) prohibiting or deferring the payment of any sums due to the offender in respect of any such interest held by the offender; or (c) directing the disposal of any such interest held

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Kinds of orders court may make		
Item	**In relation to …**	**the court may make an order …**
		by the offender; or (d) that any exercise of rights attached to any such interest held by the offender be disregarded.
4	any significant action prescribed by regulations made for the purposes of section 44	of a kind prescribed by regulations made for the purposes of this item.

Additional powers

(4) In addition to the other powers conferred on a court by this section, the court may make the following orders:

(a) an order directing any person to do or refrain from doing a specified act for the purpose of securing compliance with any other order made under this section;

(b) an order containing such ancillary or consequential provisions as the court thinks just.

(5) Before making an order under this section, the court may give a direction requiring either or both of the following:

(a) notice of the application by the Treasurer to be given to such persons as it thinks fit;

(b) for the application by the Treasurer to be published in such manner as it thinks fit.

(6) The court may, by order:

(a) rescind, vary or discharge an order made by it under this section; or

(b) suspend the operation of an order made by it under this section.

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Other powers of court unaffected

(7) The powers conferred on a court by this section are in addition to, and not instead of, any other powers of the court, whether conferred by this Act or otherwise.

133 Treasurer may require information

(1) The Treasurer may give a notice under this section if the Treasurer has reason to believe that a person can give information or produce documents relating to matters that are relevant to the exercise by the Treasurer of his or her powers under this Act.

(2) The Treasurer may, by notice in writing given to the person, require the person:

(a) to give any such information to the Treasurer or any other specified person acting on the Treasurer's behalf; or

(b) to produce any such documents to the Treasurer or any other specified person acting on the Treasurer's behalf.

Note: The periods mentioned in section 77 (time limit on making orders and decisions) stop until the person gives the information or produces the documents (see subsection 77(4)).

Giving information

(3) The notice must specify:

(a) a period (of at least 14 days) within which the information must be given or the documents produced; and

(b) the manner of giving the information or producing documents.

The Treasurer may, in writing, extend (or further extend) the period mentioned in paragraph (a) if the Treasurer is satisfied that it is reasonably necessary.

(4) The information mentioned in paragraph (2)(a) must be given to the Treasurer:

(a) in writing signed by that person; or

(b) for a corporation—by a competent officer of the corporation.

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Offence

(5) A person commits an offence if:

(a) the person is given a notice under this section; and

(b) the person does not comply with the notice.

Note: For the liability of an officer of a corporation authorising or permitting contraventions, see section 102.

Penalty: Imprisonment for 6 months or 30 penalty units, or both.

(6) Subsection (5) does not apply if the person complies with the notice to the extent to which the person is capable of complying with it.

Note: A defendant bears an evidential burden in relation to the matter in subsection (6) (see subsection 13.3(3) of the *Criminal Code*).

Self-incrimination

(7) A person is not excused from giving information or producing a document under this section on the ground that doing so might tend to incriminate him or her.

(8) However, in the case of an individual:

(a) the answer or information given; or

(b) any document produced; or

(c) giving the information or answer, or producing the document or thing; or

(d) any information, document or thing obtained as a direct or indirect consequence of giving the information or answer, or producing the document or thing;

is not admissible in evidence against him or her in any criminal proceedings or in proceedings for the recovery of a civil penalty, other than proceedings under this Act or section 137.1 or 137.2 of the *Criminal Code* (false or misleading information or documents) relating to this Act.

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134 Validity of acts done in contravention of this Act

An act is not invalidated by the fact that it constitutes an offence against or contravention of a civil penalty provision of this Act.

135 Manner of notification and application

(1) A notice given, or application made, for the purposes of this Act is of no effect unless it is given or made in the manner approved, in writing, by the Secretary.

Note: The Secretary may determine different manners of giving notices or making applications for different classes of notices or applications (see subsection 33(3A) of the *Acts Interpretation Act 1901*).

(2) The manner approved by the Secretary may be electronic communication.

(3) To avoid doubt, a notice given for the purposes of this Act includes:

(a) a notice required by a condition imposed in an exemption certificate or a no objection notification; and

(b) a notice under section 81 (notice of notifiable actions); and

(c) a notice mentioned in item 4 of the table in subsection 113(1) (notice of actions that are not notifiable actions).

136 Withdrawal of applications and notices

An application or notice that is withdrawn is of no effect.

137 Delegation of powers or functions

Delegations by Treasurer

(1) The Treasurer may, in writing, delegate to the following persons all or any of the Treasurer's powers or functions under this Act (except under sections 105, 106, 107 and 110):

(a) the Secretary;

(b) the Commissioner of Taxation;

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(c) a person engaged under the *Public Service Act 1999* who is employed in the Department or the Australian Taxation Office.

(2) The Treasurer may delegate the Treasurer's power under section 105 (Treasurer's declaration relating to charge), 106 (effect of charge on land), 107 (vesting of interest in land) or 110 (exemption from stamp duty and other State or Territory taxes and fees) to the following persons:

(a) the Secretary;

(b) the Commissioner of Taxation;

(c) an SES employee, or acting SES employee, in the Department or the Australian Taxation Office.

Delegations by Secretary

(3) The Secretary may, in writing, delegate to the following persons all or any of the Secretary's powers or functions under this Act:

(a) the Commissioner of Taxation;

(b) a person engaged under the *Public Service Act 1999* who is employed in the Department or the Australian Taxation Office.

Subdelegations by Commissioner of Taxation

(4) If a power or function is delegated to the Commissioner of Taxation under this section, the Commissioner may, in writing, subdelegate the power or function to a person engaged under the *Public Service Act 1999* who is employed in the Australian Taxation Office.

Note: See section 138 for the effect of a delegation to the Commissioner of Taxation.

(5) Sections 34AA, 34AB and 34A of the *Acts Interpretation Act 1901* apply in relation to the subdelegation in a way corresponding to the way in which they apply in relation to a delegation.

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Directions

(6) In exercising powers or performing functions delegated or subdelegated by a person under this section, the delegate or subdelegate must comply with any directions of the person.

Delegations in relation to specified kinds of matters

(7) Without limiting this section or subsection 33(3A) of the *Acts Interpretation Act 1901*, a power or function may be delegated or subdelegated generally or only in relation to specified kinds of matters.

138 Powers of Commissioner of Taxation

Powers of Commissioner of Taxation as a result of delegation

(1) If a power or function under a provision of this Act is delegated to the Commissioner of Taxation under section 137, the Commissioner has the general administration of this Act to the extent of administering the provision.

Note: The provision is therefore a taxation law for the purposes of the *Taxation Administration Act 1953* (among other laws). That Act contains a wide range of provisions about gathering, protecting and dealing with information, the exercise of powers and the performance of functions, under taxation laws, and the enforcement of taxation laws.

(2) However, the following do not apply in relation to this Act:
   (a) Part 4-25 (charges and penalties), other than section 288-35 and Division 298 to the extent that it relates to that section, in Schedule 1 to the *Taxation Administration Act 1953*;
   (b) paragraph 355-15(c) in that Schedule (application of Division 355);
   (c) Division 444 in that Schedule (obligations of entities on behalf of other entities).

(3) To avoid doubt, the Secretary or a person engaged under the *Public Service Act 1999* who is employed in the Department may be a taxation officer (within the meaning of subsection 8J(1) of the

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Taxation Administration Act 1953) to the extent that this Act is a taxation law.

Powers of Commissioner of Taxation as a result of request by Treasurer

(4) The Treasurer may request, in writing, the Commissioner of Taxation to exercise his or her powers under section 353-10 or 353-15 (powers to obtain information and evidence and access premises) in Schedule 1 to the *Taxation Administration Act 1953* in relation to a matter if a power or function has not been delegated to the Commissioner under section 137 in relation to the matter.

(5) If the Treasurer does so, the Commissioner of Taxation (or an individual authorised by the Commissioner) may exercise his or her powers under those sections of that Act as if a reference in those sections to a taxation law included a reference to this Act to the extent that it relates to the matter.

139 Regulations

(1) The Governor-General may make regulations prescribing matters:
  (a) required or permitted by this Act to be prescribed by the regulations; or
  (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without limiting subsection (1), the regulations may provide for a method for indexing a value or an amount prescribed for the purposes of this Act.

(3) Despite subsection 14(2) of the *Legislation Act 2003*, the regulations may provide in relation to a matter by applying, adopting or incorporating, with or without modification, any matter contained in any other instrument or other writing as in force or existing from time to time.

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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.

Editorial changes
The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments
A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can

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be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation "(md)" added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation "(md not incorp)" is added to the details of the amendment included in the amendment history.

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Endnote 2—Abbreviation key

ad = added or inserted

am = amended

amdt = amendment

c = clause(s)

C[x] = Compilation No. x

Ch = Chapter(s)

def = definition(s)

Dict = Dictionary

disallowed = disallowed by Parliament

Div = Division(s)

ed = editorial change

exp = expires/expired or ceases/ceased to have effect

F = Federal Register of Legislation

gaz = gazette

LA = *Legislation Act 2003*

LIA = *Legislative Instruments Act 2003*

(md) = misdescribed amendment can be given effect

(md not incorp) = misdescribed amendment cannot be given effect

mod = modified/modification

No. = Number(s)

o = order(s)

Ord = Ordinance

orig = original

par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)

pres = present

prev = previous

(prev…) = previously

Pt = Part(s)

r = regulation(s)/rule(s)

reloc = relocated

renum = renumbered

rep = repealed

rs = repealed and substituted

s = section(s)/subsection(s)

Sch = Schedule(s)

Sdiv = Subdivision(s)

SLI = Select Legislative Instrument

SR = Statutory Rules

Sub-Ch = Sub-Chapter(s)

SubPt = Subpart(s)

underlining = whole or part not commenced or to be commenced

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Foreign Takeovers Act 1975	92, 1975	28 Aug 1975	1 Jan 1976 (s 2 and gaz 1975, No S267)	
Foreign Takeovers Amendment Act 1976	93, 1976	20 Sept 1976	s 1, 2, 3(2), 5, 9, 11 and 12: 20 Sept 1976 (s 2(1)) Remainder: 1 Jan 1976 (s 2(2))	s 11 and 12
Jurisdiction of Courts (Miscellaneous Amendments) Act 1979	19, 1979	28 Mar 1979	Sch: 15 May 1979 (s 2(3) and gaz 1979, No S86) s 124: 28 Mar 1979 (s 2(1))	s 124
Commonwealth Functions (Statutes Review) Act 1981	74, 1981	18 June 1981	s 185–187: 18 June 1981 (s 2(1))	—
Foreign Takeovers Amendment Act 1989	14, 1989	13 Apr 1989	1 Aug 1989 (s 2 and gaz 1989, No S240)	s 32
Migration Legislation Amendment Act 1994	60, 1994	9 Apr 1994	Sch 3: 1 Sept 1994 (s 2(3))	—
Crimes and Other Legislation Amendment Act 1997	20, 1997	7 Apr 1997	Sch 2 (item 5): 7 Apr 1997 (s 2(1))	—
Company Law Review Act 1998	61, 1998	29 June 1998	Sch 4 (item 10): 1 July 1998 (s 2(2) and gaz 1998, No S317)	—
Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000	137, 2000	24 Nov 2000	Sch 2 (items 210, 418, 419): 24 May 2001 (s 2(3))	Sch 2 (items 418, 419)

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Treasury Legislation Amendment (Application of Criminal Code) Act (No. 1) 2001	31, 2001	28 Apr 2001	Sch 1 (items 5–10): 15 Dec 2001 (s 2(4))	—
US Free Trade Agreement Implementation Act 2004	120, 2004	16 Aug 2004	Sch 5: 1 Jan 2005 (s 2(1) item 5)	—
Statute Law Revision Act 2008	73, 2008	3 July 2008	Sch 4 (items 295–298): 4 July 2008 (s 2(1) item 64)	—
Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Act 2008	144, 2008	9 Dec 2008	Sch 14 (items 105–111): 10 Dec 2008 (s 2(1) item 36)	Sch 14 (item 111)
Foreign Acquisitions and Takeovers Amendment Act 2010	1, 2010	12 Feb 2010	Sch 1: 12 Feb 2009 (s 2(1) item 2) Remainder: 12 Feb 2010 (s 2(1) items 1, 3)	Sch 2
Personal Liability for Corporate Fault Reform Act 2012	180, 2012	10 Dec 2012	Sch 2 and Sch 7: 11 Dec 2012 (s 2)	Sch 7
Foreign Acquisitions and Takeovers Legislation Amendment Act 2015	150, 2015	25 Nov 2015	Sch 1 and Sch 3: 1 Dec 2015 (s 2(1) items 2, 4) Sch 2: 5 Mar 2016 (s 2(1) item 3)	Sch 3
Register of Foreign Ownership of Agricultural Land Amendment (Water) Act 2016	96, 2016	7 Dec 2016	Sch 1 (items 35–38): 7 Dec 2016 (s 2(1) item 1)	—

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Endnote 4—Amendment history

Provision affected	How affected
Title	rs. No. 14, 1989
	am No 150, 2015
Part 1	
Part 1 heading (prev Part I heading)	renum No 150, 2015
Division 1	
Division 1 heading	ad No 150, 2015
s. 1	am. No. 14, 1989
s. 3	am. No. 93, 1976; No. 19, 1979
	rs No 150, 2015
	am No 150, 2015
Division 2	
Division 2	ad No 150, 2015
Subdivision A	
s. 4	am. No. 14, 1989
	rs No 150, 2015
Subdivision B	
s. 5	am. No. 93, 1976; No. 74, 1981; No. 14, 1989; No. 61, 1998; No. 120, 2004; Nos. 73 and 144, 2008; No. 1, 2010
	rs No 150, 2015
s. 5A	ad. No. 14, 1989
	am. No. 60, 1994
	rep No 150, 2015
s. 6	am. No. 14, 1989; No. 144, 2008
	rs No 150, 2015
s. 7	am. No. 14, 1989; No. 73, 2008
	rs No 150, 2015
s. 8	am. No. 93, 1976
	rs No 150, 2015

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Endnote 4—Amendment history

Provision affected	How affected
s. 9	am. No. 14, 1989; No. 1, 2010
	rs No 150, 2015
s. 9A	ad. No. 14, 1989
	rep No 150, 2015
s 10	rs No 150, 2015
s. 11	am. No. 73, 2008; No. 1, 2010
	rs No 150, 2015
s 12	rs No 150, 2015
s 12A	ad. No. 14, 1989
	rep No 150, 2015
s 12B	ad No 14, 1989
	rep No 150, 2015
s. 12C	ad. No. 14, 1989
	am. No. 1, 2010
	rep No 150, 2015
s. 13	am. No. 14, 1989
	rs No 150, 2015
s. 13A	ad. No. 14, 1989
	rep No 150, 2015
s. 13B	ad. No. 14, 1989
	am. No. 120, 2004
	rep No 150, 2015
s 13C	ad. No. 14, 1989
	rep No 150, 2015
s 13D	ad No 14, 1989
	rep No 150, 2015
s. 14	am. No. 1, 2010
	rs No 150, 2015
s. 15	am. No. 93, 1976
	rs No 150, 2015
s 16	rs No 150, 2015

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Provision affected	How affected
s 17	rs No 150, 2015
Part IA	ad. No. 120, 2004
	rep No 150, 2015
s 17A	ad. No. 120, 2004
	rep No 150, 2015
s 17B	ad. No. 120, 2004
	rep No 150, 2015
s 17C	ad. No. 120, 2004
	rep No 150, 2015
s 17D	ad. No. 120, 2004
	rep No 150, 2015
s 17E	ad. No. 120, 2004
	rep No 150, 2015
s 17F	ad. No. 120, 2004
	rep No 150, 2015
s 17G	ad. No. 120, 2004
	rep No 150, 2015
s 17H	ad No 120, 2004
	rep No 150, 2015
Part II heading	am. No. 14, 1989
	rep No 150, 2015
Part II	rep No 150, 2015
s. 18	am. No. 73, 2008; No. 1, 2010; No 180, 2012
	rs No 150, 2015
s. 19	am. No. 73, 2008; No 180, 2012
	rs No 150, 2015
s. 20	am. No. 73, 2008; No. 1, 2010; No. 180, 2012
	rs No 150, 2015
s. 21	am. No. 73, 2008; No. 1, 2010; No. 180, 2012
	rs No 150, 2015
s. 21A	ad. No. 14, 1989

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Endnote 4—Amendment history

Provision affected	How affected
	am No 180, 2012
	rep No 150, 2015
s. 22	am. No. 14, 1989; No. 73, 2008; No. 180, 2012
	rs No 150, 2015
s. 23	am. No. 14, 1989
	rs No 150, 2015
s. 24	am. No. 14, 1989; No. 73, 2008
	rs No 150, 2015
s. 25	am. No. 14, 1989; No. 31, 2001; No. 1, 2010; No. 180, 2012
	rs No 150, 2015
s. 26	rs. No. 93, 1976
	am. No. 74, 1981; No. 14, 1989; No. 31, 2001; No. 73, 2008; No. 1, 2010; No. 180, 2012
	rs No 150, 2015
s. 26A	ad. No. 14, 1989
	am. No. 31, 2001; No. 180, 2012
	rep No 150, 2015
s. 27	am. No. 14, 1989
	rs No 150, 2015
s. 28	rs. No. 93, 1976
	am. No. 1, 2010
	rs No 150, 2015
Division 3	
Division 3	ad No 150, 2015
s. 29	rep. No. 93, 1976
	ad No. 150, 2015
Part III	rep No 150, 2015
s. 30	am. No. 14, 1989; No. 31, 2001; No. 73, 2008; No. 180, 2012
	rs No 150, 2015
s. 31	am. No. 180, 2012
	rs No 150, 2015

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Endnote 4—Amendment history

Provision affected	How affected
s. 32	am. No. 14, 1989
	rep. No. 31, 2001
	ad No 150, 2015
s. 33	rep. No. 20, 1997
	ad No 150, 2015
s. 34	rep. No. 14, 1989
	ad No 150, 2015
s. 35	am. No. 14, 1989
	rs No 150, 2015
s. 36	am. No. 14, 1989; No. 31, 2001; No. 73, 2008; No. 180, 2012
	rs No 150, 2015
s. 36A	ad. No. 14, 1989
	rep. No. 137, 2000
s 37	rs No 150, 2015
Part 2	
Part 2	ad No 150, 2015
Division 1	
s. 38	rs. No. 93, 1976; No 150, 2015
s. 38A	ad. No. 14, 1989
	rep No 150, 2015
Division 2	
s 39	rs No 150, 2015
s 40	ad No 150, 2015
s 41	ad No 150, 2015
s 42	ad No 150, 2015
s 43	ad No 150, 2015
s 44	ad No 150, 2015
s 45	ad No 150, 2015
Division 3	
s 46	ad No 150, 2015
s 47	ad No 150, 2015

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Endnote 4—Amendment history

Provision affected	How affected
s 48	ad No 150, 2015
s 49	ad No 150, 2015
Division 4	
Subdivision A	
s 50	ad No 150, 2015
Subdivision B	
s 51	ad No 150, 2015
s 52	ad No 150, 2015
s 53	ad No 150, 2015
Subdivision C	
s 54	ad No 150, 2015
Subdivision D	
s 55	ad No 150, 2015
Division 5	
s 56	ad No 150, 2015
s 57	ad No 150, 2015
s 58	ad No 150, 2015
s 59	ad No 150, 2015
s 60	ad No 150, 2015
s 61	ad No 150, 2015
s 62	ad No 150, 2015
s 63	ad No 150, 2015
Division 6	
s 64	ad No 150, 2015
s 65	ad No 150, 2015
Part 3	
Part 3	ad No 150, 2015
Division 1	
s 66	ad No 150, 2015
	am No 150, 2015
Division 2	

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Provision affected	How affected
Subdivision A	
s 67	ad No 150, 2015
	am No 150, 2015
s 68	ad No 150, 2015
	am No 150, 2015
s 69	ad No 150, 2015
	am No 150, 2015
s 70	ad No 150, 2015
s 71	ad No 150, 2015
s 72	ad No 150, 2015
	am No 150, 2015
s 73	ad No 150, 2015
Subdivision B	
s 74	ad No 150, 2015
s 75	ad No 150, 2015
s 76	ad No 150, 2015
Division 3	
s 77	ad No 150, 2015
	am No 150, 2015
s 78	ad No 150, 2015
s 79	ad No 150, 2015
Part 4	
Part 4	ad No 150, 2015
s 80	ad No 150, 2015
	am No 150, 2015
s 81	ad No 150, 2015
s 82	ad No 150, 2015
Part 5	
Part 5	ad No 150, 2015
Division 1	
s 83	ad No 150, 2015

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Endnote 4—Amendment history

Provision affected	How affected
Division 2	
s 84	ad No 150, 2015
s 85	ad No 150, 2015
s 86	ad No 150, 2015
s 87	ad No 150, 2015
s 88	ad No 150, 2015
Division 3	
Subdivision A	
s 89	ad No 150, 2015
Subdivision B	
s 90	ad No 150, 2015
s 91	ad No 150, 2015
s 92	ad No 150, 2015
s 93	ad No 150, 2015
Subdivision C	
s 94	ad No 150, 2015
s 95	ad No 150, 2015
s 96	ad No 150, 2015
s 97	ad No 150, 2015
s 98	ad No 150, 2015
Division 4	
Subdivision A	
s 99	ad No 150, 2015
	am No 96, 2016
s 100	ad No 150, 2015
	am No 96, 2016
s 101	ad No 150, 2015
Subdivision B	
s 102	ad No 150, 2015
s 103	ad No 150, 2015
Subdivision C	

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Provision affected	How affected
s 104	ad No 150, 2015
s 105	ad No 150, 2015
s 106	ad No 150, 2015
s 107	ad No 150, 2015
s 108	ad No 150, 2015
s 109	ad No 150, 2015
s 110	ad No 150, 2015
s 111	ad No 150, 2015
Part 6	
Part 6	ad No 150, 2015
s 112	ad No 150, 2015
s 113	ad No 150, 2015
s 114	ad No 150, 2015
s 115	ad No 150, 2015
Part 7	
Part 7	ad No 150, 2015
Division 1	
s 116	ad No 150, 2015
Division 2	
s 117	ad No 150, 2015
s 118	ad No 150, 2015
s 119	ad No 150, 2015
Division 3	
s 120	ad No 150, 2015
s 121	ad No 150, 2015
s 122	ad No 150, 2015
s 123	ad No 150, 2015
s 124	ad No 150, 2015
s 125	ad No 150, 2015
s 126	ad No 150, 2015
s 127	ad No 150, 2015

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Endnote 4—Amendment history

Provision affected	How affected
s 128	ad No 150, 2015
s 129	ad No 150, 2015
s 130	ad No 150, 2015
Part 8	
Part 8	ad No 150, 2015
s 131	ad No 150, 2015
s 132	ad No 150, 2015
s 133	ad No 150, 2015
s 134	ad No 150, 2015
s 135	ad No 150, 2015
s 136	ad No 150, 2015
s 137	ad No 150, 2015
s 138	ad No 150, 2015
s 139	ad No 150, 2015
	am No 150, 2015

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