



Foreign Acquisitions and Takeovers Fees Imposition Act 2015

No. 152, 2015

Compilation No. 4

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About this compilation

This compilation

This is a compilation of the *Foreign Acquisitions and Takeovers Fees Imposition Act 2015* that shows the text of the law as amended and in force on 1 January 2021 (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If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.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 to impose, as taxes, fees under the *Foreign Acquisitions and Takeovers Act 1975*, and for related purposes

Part 1—Preliminary

1 Short title

This Act may be cited as the *Foreign Acquisitions and Takeovers Fees Imposition Act 2015*.

2 Commencement

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

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 4 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	25 November 2015

Part 1 Preliminary

Section 3

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
2. Sections 5 to 13	The later of: (a) the start of the day after this Act receives the Royal Assent; and (b) the commencement of Schedule 1 to the <i>Foreign Acquisitions and Takeovers Legislation Amendment Act 2015</i> . However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	1 December 2015 (paragraph (b) applies)

Note: This table relates only to the provisions of this Act as originally enacted.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

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

3 Extension to external Territories

This Act extends to every external Territory.

4 Definitions

- (1) In this Act:

Foreign Acquisitions Act means the *Foreign Acquisitions and Takeovers Act 1975*.

Foreign Acquisitions Regulation means the *Foreign Acquisitions and Takeovers Regulation 2015*.

indexation factor has the meaning given by section 8.

index number has the meaning given by section 9.

quarter means a period of 3 months ending on 31 March, 30 June, 30 September or 31 December.

this Act includes the regulations.

- (2) Subject to subsection (1), an expression used in this Act that is defined in the Foreign Acquisitions Act or regulations made for the purposes of that Act has the same meaning in this Act as it has in that Act or those regulations.

Part 2—Imposition and amounts of fees

5 Imposition of fees

A fee payable under:

- (a) Part 6 (fees in relation to actions); or
- (b) Part 6A (vacancy fees for foreign acquisitions of residential land);

of the Foreign Acquisitions Act is imposed as a tax by this section.

6 Amounts of fees

- (1) The amount of a fee imposed by section 5 is the amount worked out in accordance with regulations made for the purposes of this subsection.
- (2) Without limiting subsection (1), the regulations may do one or more of the following:
 - (a) specify an amount or a method for determining an amount;
 - (b) specify different amounts or methods for:
 - (i) different kinds of fees; or
 - (ii) different kinds of persons liable to pay a kind of fee; or
 - (iii) different kinds of circumstances giving rise to the liability to pay a kind of fee;
 - (c) specify a nil amount, or a method resulting in a nil amount;
 - (d) specify a method for a kind of fee when such a fee is one of 2 or more fees payable in relation to a single agreement;
 - (e) specify a method for a kind of fee payable in relation to an action if that action is covered by more than one provision of the Foreign Acquisitions Act or Foreign Acquisitions Regulation (because the action is an action of more than one kind);
 - (f) specify a method for a kind of fee that:
 - (i) initially determines an amount; and

- (ii) later determines a lower replacement amount (including a nil amount) if specified circumstances arise after the fee becomes payable.

Paragraphs (c) to (f) do not limit paragraph (b).

Note: A method for determining an amount could, for example, include:

- (a) indexation; or
- (b) providing for a lower amount if certain circumstances exist; or
- (c) reducing the amount to nil if another person who is jointly and severally liable for the fee pays the fee.

Cap on the amount of a fee

- (3) The amount of a fee imposed by section 5 must not exceed \$1 million.

7 Indexation of fee cap

- (1) The amount referred to in subsection 6(3) is to be indexed on the first day of each financial year starting on or after 1 July 2021. The amount is indexed by multiplying it by its indexation factor.
- (2) If after indexation the amount is not a multiple of \$100, round down the indexed amount to the nearest multiple of \$100.
- (3) If the indexed amount worked out under subsection (1) for a financial year (the **current year**) (after any rounding under subsection (2)) is less than the indexed amount for the previous financial year, the indexed amount for the current year is the indexed amount for the previous financial year.

8 Indexation factor

- (1) The **indexation factor** is:

$$\frac{\text{Sum of the index numbers for the 4 quarters in the year ending on 31 March just before the start of the relevant financial year}}{\text{Sum of the index numbers for the 4 quarters in the year ending on 31 March in the financial year before the financial year in which this section commences}}$$

Section 9

- (2) Work out the indexation factor to 3 decimal places (rounding up if the fourth decimal place is 5 or more).

Example: If the factor is 1.102795, it would be rounded up to 1.103.

9 Index number

The *index number* for a quarter is the All Groups Consumer Price Index number (being the weighted average of the 8 capital cities) first published by the Australian Statistician for the quarter.

Part 3—Regulations

13 Regulations

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.

Endnotes

Endnote 1—About the endnotes

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

Endnote 1—About the endnotes

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.

Endnotes

Endnote 2—Abbreviation key

Endnote 2—Abbreviation key

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

Endnote 3—Legislation history

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Foreign Acquisitions and Takeovers Fees Imposition Act 2015	152, 2015	25 Nov 2015	s 5–13: 1 Dec 2015 (s 2(1) item 2) Remainder: 25 Nov 2015 (s 2(1) item 1)	
Foreign Acquisitions and Takeovers Fees Imposition Amendment (Fee Streamlining and Other Measures) Act 2017	69, 2017	23 June 2017	24 June 2017 (s 2(1) item 1)	Sch 1 (items 12, 13)
Foreign Acquisitions and Takeovers Fees Imposition Amendment (Vacancy Fees) Act 2017	127, 2017	30 Nov 2017	15 Dec 2017 (s 2(1) item 1)	—
Foreign Acquisitions and Takeovers Fees Imposition Amendment (Near-new Dwelling Interests) Act 2019	126, 2019	12 Dec 2019	13 Dec 2019 (s 2(1) item 1)	Sch 1 (items 5, 6)
Foreign Acquisitions and Takeovers Fees Imposition Amendment Act 2020	115, 2020	10 Dec 2020	1 Jan 2021 (s 2(1) item 1)	Sch 1 (item 8)

Endnotes

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Part 1	
s 4	am No 127, 2017; No 115, 2020
Part 2	
Part 2	rs No 115, 2020
Division 1 heading.....	ad No 127, 2017
	rep No 115, 2020
s 5	am No 127, 2017
	rs No 115, 2020
Division 2 heading.....	ad No 127, 2017
	rep No 115, 2020
s 6	am No 69, 2017; No 126, 2019
	rs No 115, 2020
s 7	rs No 69, 2017; No 115, 2020
s 8	am No 69, 2017
	rs No 115, 2020
s 9	am No 127, 2017
	rs No 115, 2020
s 10	am No 69, 2017
	rep No 115, 2020
s 11	am No 69, 2017; No 127, 2017
	rep No 115, 2020
s 12	am No 69, 2017; No 127, 2017
	rep No 115, 2020
Division 3	ad No 127, 2017
	rep No 115, 2020
s 12A	ad No 127, 2017
	rep No 115, 2020