



# **Foreign Acquisitions and Takeovers Amendment (Threshold Test) Regulations 2020**

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I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 16 April 2020

David Hurley  
Governor-General

By His Excellency's Command

Josh Frydenberg  
Treasurer

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## 1 Name

This instrument is the *Foreign Acquisitions and Takeovers Amendment (Threshold Test) Regulations 2020*.

## 2 Commencement

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

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<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. The whole of this instrument	The day after this instrument is registered.	18 April 2020

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Note: This table relates only to the provisions of this instrument as originally made.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

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

## 3 Authority

This instrument is made under the *Foreign Acquisitions and Takeovers Act 1975*.

## 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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## Schedule 1—Amendments

### *Foreign Acquisitions and Takeovers Regulation 2015*

#### 1 Section 5

Repeal the following definitions:

- (a) definition of *existing value*;
- (b) definition of *GDP implicit price deflator value*.

#### 2 Subsection 38(5)

Repeal the subsection.

#### 3 Subsections 40(2) and (2A)

Repeal the subsections.

#### 4 Part 4

Repeal the Part, substitute:

## Part 4—Thresholds

### 49 Simplified outline of this Part

Certain actions are only significant actions or notifiable actions if the threshold test is met.

This Part prescribes nil as the value for that test. Some land has no threshold value.

### 51 Taking action in relation to entities and businesses (including agribusinesses)

For the purposes of section 51 of the Act, the prescribed value is nil.

### 52 Land

- (1) For the purposes of subsection 52(1) of the Act, all land other than agricultural land is prescribed.
- (2) For the purposes of paragraph 52(2)(b) of the Act, the prescribed value is nil.

### 5 In the appropriate position

Insert:

### 74 Application of the *Foreign Acquisitions and Takeovers Amendment (Threshold Test) Regulations 2020*

- (1) The amendments made by the amending regulations apply in relation to an action taken on or after the announcement time, unless the action is covered by an agreement entered into before the announcement time.

(2) In applying subsection (1), disregard subsection 15(5) of the Act (about provisions of agreements that are not currently binding).

*Saving provision for restrictive conditions in exemption certificates*

(3) Despite the repeal of subsections 52(6), (6A) and (7) of this instrument by the amending regulations, those subsections continue to apply, on and after the announcement time, in relation to an exemption certificate covered by subsection (4), as if the repeal had not happened.

(4) This subsection covers an exemption certificate if:

- (a) the certificate was in force at the announcement time; and
- (b) a condition specified in the certificate referred to subsection 52(6), (6A) or (7) of this instrument.

*Definitions*

(5) In this section:

***amending regulations*** means the *Foreign Acquisitions and Takeovers Amendment (Threshold Test) Regulations 2020*.

***announcement time*** means 10.30 pm, by legal time in the Australian Capital Territory, on 29 March 2020.