



Foreign Acquisitions and Takeovers Fees Imposition Amendment (Fee Streamlining and Other Measures) Act 2017

No. 69, 2017

***An Act to amend the *Foreign Acquisitions and
Takeovers Fees Imposition Act 2015*, and for related
purposes***

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

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***An Act to amend the *Foreign Acquisitions and
Takeovers Fees Imposition Act 2015*, and for related
purposes***

[Assented to 23 June 2017]

The Parliament of Australia enacts:

*No. 69, 2017 Foreign Acquisitions and Takeovers Fees Imposition Amendment (Fee
Streamlining and Other Measures) Act 2017 1*

1 Short title

This Act is the *Foreign Acquisitions and Takeovers Fees Imposition Amendment (Fee Streamlining and Other Measures) Act 2017*.

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. The whole of this Act	The day after this Act receives the Royal Assent.	24 June 2017

Note: This table relates only to the provisions of this Act as originally enacted.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 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Fee streamlining

Part 1—Amendments

Foreign Acquisitions and Takeovers Fees Imposition Act 2015

1 Subsections 6(1) and (2)

Repeal the subsections, substitute:

Fees generally

- (1) The amount of the fee for an application for an exemption certificate, or an application for a variation of an exemption certificate, is worked out in accordance with the following table.

Fees for certificates		
Item	The amount of the fee for an application for ...	is ...
1	an exemption certificate under section 57 (new dwellings) of the Foreign Acquisitions Act	\$25,700.
2	an exemption certificate under section 58 (foreign persons) of the Foreign Acquisitions Act	\$35,000.
3	an exemption certificate under section 59 (established dwellings) of the Foreign Acquisitions Act	<p>(a) if the application specifies that the consideration for the acquisition will be \$1 million or less—\$5,500; and</p> <p>(b) if the application specifies that the consideration for the acquisition will be more than \$1 million, and \$10 million or less—the amount worked out under subsection (2); and</p> <p>(c) if the application specifies that the consideration for the acquisition will be more than \$10 million—the amount worked out under subsection (2A).</p>

Schedule 1 Fee streamlining
Part 1 Amendments

Fees for certificates

Item	The amount of the fee for an application for ...	is ...
4	an exemption certificate given under regulations made for the purposes of section 63 of the Foreign Acquisitions Act	<p>(a) if the exemption certificate is a residential land (other than established dwellings) certificate within the meaning of those regulations—the amount, not exceeding the amount of the fee that would be payable if the application were for an exemption certificate under section 59 of the Foreign Acquisitions Act, that is:</p> <ul style="list-style-type: none"> (i) prescribed by regulations made for the purposes of this paragraph; or (ii) worked out using the method prescribed by regulations made for the purposes of this paragraph; or <p>(b) otherwise—the amount not exceeding \$35,000 that is prescribed by regulations, or worked out using the method prescribed by regulations, made for the purposes of this paragraph.</p>
5	a variation of an exemption certificate under section 62 of the Foreign Acquisitions Act	<p>(a) \$5,100, if the application is for a variation of an exemption certificate given under sections 57 and 59 of the Foreign Acquisitions Act; or</p> <p>(b) \$5,100, if:</p> <ul style="list-style-type: none"> (i) the application is for a variation of an exemption certificate given under regulations made for the purposes of section 63 of the Foreign Acquisitions Act; and (ii) the exemption certificate given under the regulations relates to residential land; or <p>(c) \$10,100, if the application is for a variation of any other exemption certificate under the Foreign Acquisitions Act, or provided for in regulations made under section 63 of that Act.</p>

- Note 1: For table item 1, see also subsection (3).
- Note 2: **Consideration** is defined by regulations made for the purposes of the Foreign Acquisitions Act (see section 4 of that Act).
- Note 3: See also sections 11 (regulations may lower fees) and 12 (indexation of fees) of this Act.

Fees for applications for exemption certificates—consideration more than \$1 million, and \$10 million or less

- (2) For the purposes of paragraph (b) of item 3 of the table in subsection (1), the amount of the fee is worked out as follows:

Method statement

- Step 1. Apply the following formula:

$$\frac{\text{Amount of consideration specified in the application}}{1,000,000}$$

Round the resulting amount down to the nearest whole number, if necessary.

- Step 2. Multiply the step 1 amount by \$10,000.
- Step 3. Multiply the step 2 amount by 1.015. Round the resulting amount down to the nearest multiple of \$100, if necessary.
- Step 4. Add to the step 3 amount the amount that is 10% of the step 3 amount. Round the resulting amount down to the nearest multiple of \$100, if necessary.
- Step 5. The step 4 amount is the amount of the fee.

Fees for applications for exemption certificates—consideration more than \$10 million

- (2A) For the purposes of paragraph (c) of item 3 of the table in subsection (1), the amount of the fee is worked out as follows:

Method statement

Step 1. Apply the following formula:

$$\frac{\text{Amount of consideration specified in the application}}{1,000,000}$$

Round the resulting amount down to the nearest whole number, if necessary.

Step 2. Multiply the step 1 amount by \$10,000.

Step 3. Multiply the step 2 amount by 1.030. Round the resulting amount down to the nearest multiple of \$100, if necessary.

Step 4. The step 3 amount is the amount of the fee.

2 Subsection 6(4)

Omit “item 2”, substitute “item 3”.

3 Section 7

Repeal the section, substitute:

7 Fees for giving notice of notifiable actions

- (1) The amount of the fee for giving a notice of a notifiable action under section 81 of the Foreign Acquisitions Act is worked out in accordance with the following table.

Fees for giving notice of notifiable actions		
Item	If the notifiable action is ...	the amount of the fee is ...
1	(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	(a) if the consideration for the acquisition is \$10 million or less—\$2,000; and (b) if the consideration is more than \$10 million, and \$1 billion or less—\$25,300; and

Fees for giving notice of notifiable actions		
Item	If the notifiable action is ...	the amount of the fee is ...
		(c) if the consideration is more than \$1 billion—\$101,500.
2	to acquire an interest in agricultural land	(a) if the consideration for the acquisition is \$2 million or less—\$2,000; and (b) if the consideration for the acquisition is more than \$2 million, and \$10 million or less—\$25,300; and (c) if the consideration is more than \$10 million—\$101,500.
3	to acquire an interest in residential land	(a) if the consideration for the acquisition is \$1 million or less—\$5,500; and (b) if the consideration for the acquisition is more than \$1 million, and \$10 million or less—the amount worked out under subsection (2); and (c) if the consideration for the acquisition is more than \$10 million—the amount worked out under subsection (3).
4	to acquire an interest in commercial land (whether the land is vacant or not)	(a) if the consideration for the acquisition is \$10 million or less—\$2,000; and (b) if the consideration is more than \$10 million, and \$1 billion or less—\$25,300; and (c) if the consideration is more than \$1 billion—\$101,500.
5	to acquire an interest in a mining or production tenement	\$25,300.
6	to take a notifiable action prescribed by regulations made for the purposes of section 48 of the Foreign Acquisitions Act	the amount not exceeding \$101,500 that is prescribed by regulations, or worked out using the method prescribed by regulations, made for the purposes of this item.

Schedule 1 Fee streamlining
Part 1 Amendments

Note 1: **Consideration** is defined by regulations made for the purposes of the Foreign Acquisitions Act (see section 4 of that Act).

Note 2: See also sections 10 (fees for internal reorganisations), 11 (regulations may lower fees) and 12 (indexation of fees) of this Act.

Fees for acquisition of interests in residential land—consideration more than \$1 million, and \$10 million or less

- (2) For the purposes of paragraph (b) of item 3 of the table in subsection (1), the amount of the fee is worked out as follows:

Method statement

Step 1. Apply the following formula:

$$\frac{\text{Consideration for the acquisition}}{1,000,000}$$

Round the resulting amount down to the nearest whole number, if necessary.

Step 2. Multiply the step 1 amount by \$10,000.

Step 3. Multiply the step 2 amount by 1.015. Round the resulting amount down to the nearest multiple of \$100, if necessary.

Step 4. Add to the step 3 amount the amount that is 10% of the step 3 amount. Round the resulting amount down to the nearest multiple of \$100, if necessary.

Step 5. The step 4 amount is the amount of the fee.

Fees for acquisition of interests in residential land—consideration more than \$10 million

- (3) For the purposes of paragraph (c) of item 3 of the table in subsection (1), the amount of the fee is worked out as follows:

Method statement

Step 1. Apply the following formula:

$$\frac{\text{Consideration for the acquisition}}{1,000,000}$$

Round the resulting amount down to the nearest whole number, if necessary.

Step 2. Multiply the step 1 amount by \$10,000.

Step 3. Multiply the step 2 amount by 1.030. Round the resulting amount down to the nearest multiple of \$100, if necessary.

Step 4. The step 3 amount is the amount of the fee.

4 Subsection 8(1) (table items 1 and 2)

Repeal the items, substitute:

- | | | |
|---|--|---|
| 1 | <p>(a) to acquire an interest in securities in an entity that is not a substantial interest in the entity; or</p> <p>(b) to issue securities in an entity; or</p> <p>(c) to acquire interests in assets of an Australian business</p> | <p>(a) if the consideration for the acquisition is \$10 million or less—\$2,000; and</p> <p>(b) if the consideration for the acquisition is more than \$10 million, and \$1 billion or less—\$25,300; and</p> <p>(c) if the consideration is more than \$1 billion—\$101,500.</p> |
| 2 | <p>(a) to enter an agreement mentioned in paragraph 40(2)(d) of the Foreign Acquisitions Act; or</p> <p>(b) to alter a constituent document of an entity as mentioned in paragraph 40(2)(e) of the Foreign Acquisitions Act; or</p> <p>(c) to enter or terminate a significant</p> | <p>\$10,100.</p> |

agreement with an Australian
business

5 Paragraph 8(2)(a)

Omit “Australian land—\$5,000”, substitute “residential land—\$5,100”.

6 Paragraph 8(2)(b)

Omit “\$10,000”, substitute “\$10,100”.

7 Section 10

Omit “sections 6 to 9”, substitute “sections 7 to 9”.

8 Section 10

Omit “\$10,000”, substitute “\$10,100”.

9 Section 11 (note)

Repeal the note, substitute:

Note: For example, the regulations may prescribe a lower amount for the purposes of item 4 of the table in subsection 7(1) only in relation to acquisitions of interests in commercial land that is not vacant.

10 Paragraph 12(9)(a)

Repeal the paragraph, substitute:

- (a) the following amounts are not fees:
 - (i) the amounts specified in the method statements in subsections 6(2) and (2A) and 7(2) and (3) (except the amount specified in the final step in any of those method statements);
 - (ii) an amount of \$1 million, \$2 million, \$10 million or \$1 billion specified in an item of the table in subsection 6(1), 7(1) or 8(1); and

11 Subparagraph 12(9)(b)(iii)

Repeal the subparagraph.

Part 2—Application and savings

12 Application of amendments

- (1) The amendments of section 6 of the *Foreign Acquisitions and Takeovers Fees Imposition Act 2015* (the **Fees Act**) made by this Act apply in relation to a fee payable for an application for an exemption certificate made on or after 1 July 2017.
- (2) The amendments of section 7 of the Fees Act made by this Act apply in relation to a fee payable for:
 - (a) a notice of a notifiable action given on or after 1 July 2017; and
 - (b) in the case of a person given an exemption certificate under section 57 of the Foreign Acquisitions Act—any new dwelling acquisition that occurs on or after 1 July 2017.

Note: See subsections 6(3) and (4) of the Fees Act.

- (3) The amendments of section 8 of the Fees Act made by this Act apply in relation to a fee payable for:
 - (a) a notice of a proposal to take an action that is not a notifiable action given on or after 1 July 2017; and
 - (b) an order made under Subdivision A of Division 2 of Part 3 of the Foreign Acquisitions Act on or after 1 July 2017; and
 - (c) a no objection notification given on or after 1 July 2017.
- (4) The amendments of section 10 of the Fees Act made by this Act apply in relation to a fee payable for any action that constitutes an internal reorganisation taken on or after 1 July 2017.
- (5) Despite section 114 of the Foreign Acquisitions Act, a notice or application given or made before 1 July 2017 is taken to have been given or made for the purposes of this item even if the fee payable for giving the notice or making the application had not been paid before that date.

13 Saving of regulations

- (1) Regulations in force immediately before the commencement of this item for the purposes of item 4 of the table in subsection 6(1) of the

Schedule 1 Fee streamlining
Part 2 Application and savings

Foreign Acquisitions and Takeovers Fees Imposition Act 2015 (the Fees Act) have effect after that commencement as if they had been made for the purposes of item 4 of the table in subsection 6(1) of the Fees Act as amended by this Act.

- (2) Regulations in force immediately before the commencement of this item for the purposes of item 6 of the table in subsection 7(1) of the Fees Act have effect after that commencement as if they had been made for the purposes of item 6 of the table in subsection 7(1) of the Fees Act as amended by this Act.

[*Minister's second reading speech made in—
House of Representatives on 1 June 2017
Senate on 20 June 2017*]

(113/17)

12 *Foreign Acquisitions and Takeovers Fees Imposition Amendment (Fee Streamlining and Other Measures) Act 2017* No. 69, 2017