



Foreign Acquisitions and Takeovers Fees Imposition Amendment (Vacancy Fees) Act 2017

No. 127, 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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No. 127, 2017

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

[Assented to 30 November 2017]

The Parliament of Australia enacts:

No. 127, 2017 Foreign Acquisitions and Takeovers Fees Imposition Amendment 1
(Vacancy Fees) Act 2017

1 Short title

This Act is the *Foreign Acquisitions and Takeovers Fees Imposition Amendment (Vacancy Fees) 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	At the same time as Schedule 3 to the <i>Treasury Laws Amendment (Housing Tax Integrity) Act 2017</i> commences. However, the provisions do not commence at all if that Schedule does not commence.	15 December 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Note: This table relates only to the provisions of this Act as originally enacted.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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Amendments

Foreign Acquisitions and Takeovers Fees Imposition Act 2015

1 Subsection 4(1)

Insert:

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

2 Before section 5

Insert:

Division 1—Imposition of fees as taxes

3 Section 5

Omit “Part 6”, substitute “Part 6 (fees in relation to actions) or Part 6A (vacancy fees for foreign acquisitions of residential land)”.

4 Before section 6

Insert:

Division 2—Fees under Part 6 of the Foreign Acquisitions Act

5 Subsection 9(1)

After “a fee” (first occurring), insert “specified in this Division”.

6 Section 11 (heading)

Repeal the heading, substitute:

11 Regulations may lower fees specified in this Division

7 Subsections 11(1) and (2)

Omit “Part”, substitute “Division”.

8 Subsection 12(1)

Omit “Part” (wherever occurring), substitute “Division”.

9 Subsection 12(8) (definition of *base amount*)

Omit “Part” (wherever occurring), substitute “Division”.

10 Subsection 12(8) (paragraphs (a), (b) and (d) of the definition of *base financial year*)

Omit “Part” (wherever occurring), substitute “Division”.

11 At the end of Part 2

Add:

Division 3—Fees under Part 6A of the Foreign Acquisitions Act

12A Vacancy fees

The amount of the vacancy fee a foreign person is liable to pay in relation to a dwelling on residential land is worked out in accordance with the following table.

Vacancy fees		
Item	If the action to acquire the interest in that land was ...	the amount of the vacancy fee for each dwelling on that land is ...
1	a notifiable action	(a) the amount of the fee that was payable by the person for giving notice of the notifiable action under section 81 of the Foreign Acquisitions Act, at the time the notice was given; or (b) if the fee mentioned in paragraph (a) was waived—the amount of the fee payable under paragraph (a) of item 3 of the table in subsection 7(1) of this Act for giving notice of such an action, at the time the notice was given (regardless of any

Vacancy fees		
Item	If the action to acquire the interest in that land was ...	the amount of the vacancy fee for each dwelling on that land is ...
		regulations made for the purposes of section 11 of this Act).
2	either: (a) an action by a foreign person covered by an exemption certificate under section 57 (new dwellings) of the Foreign Acquisitions Act; or (b) an action by a foreign person covered by a residential land (near-new dwelling interests) certificate within the meaning of the Foreign Acquisitions Regulation	the amount of the fee that would have been payable if a notice of a notifiable action under section 81 of the Foreign Acquisitions Act had been given for the action covered by the certificate, at the time of the action (regardless of any regulations made for the purposes of section 11 of this Act).
3	covered by an exemption certificate under section 59 (established dwellings) of the Foreign Acquisitions Act	(a) the amount of the fee that was payable by the person for applying for the certificate, at the time of the application; or (b) if the fee mentioned in paragraph (a) was waived—the amount of the fee payable under paragraph (a) of item 3 of the table in subsection 6(1) of this Act for applying for the certificate, at the time of the application (regardless of any regulations made for the purposes of section 11 of this Act).
4	covered by a residential land (other than established dwellings) certificate within the meaning of the Foreign Acquisitions Regulation	(a) the amount of the fee that was payable by the person for applying for the certificate, at the time of the application; or (b) if the fee mentioned in paragraph (a) was waived—the amount of the fee payable as worked out under paragraph 6B(1)(a) of the

Schedule 1 Amendments

Vacancy fees		
Item	If the action to acquire the interest in that land was ...	the amount of the vacancy fee for each dwelling on that land is ...
		<i>Foreign Acquisitions and Takeovers Fees Imposition Regulation 2015</i> for applying for the certificate, at the time of the application (regardless of any regulations made for the purposes of section 11 of this Act).
5	covered by any other exemption certificate given under regulations made for the purposes of section 63 of the Foreign Acquisitions Act that relates to the acquisition of residential land	the amount, not exceeding the amount of the fee that would be payable to apply for the certificate under this Act or the <i>Foreign Acquisitions and Takeovers Fees Imposition Regulation 2015</i> , that is: <ul style="list-style-type: none"> (a) prescribed by regulations made for the purposes of this paragraph; or (b) worked out using the method prescribed by regulations made for the purposes of this paragraph.
6	specified in: <ul style="list-style-type: none"> (a) an order made under Subdivision A of Division 2 of Part 3 of the Foreign Acquisitions Act; or (b) a no objection notification 	<ul style="list-style-type: none"> (a) the amount of the fee that was payable by the person under item 3 of the table in subsection 8(1) of this Act in relation to the action specified in the order or notification, at the time the order or notification was given; or (b) if the fee mentioned in paragraph (a) was waived—the amount of the fee that would have been payable under paragraph (a) of item 3 of the table in subsection 7(1) of this Act if a notice of a notifiable action under section 81 of the Foreign Acquisitions Act had been given for the action

Vacancy fees

Item	If the action to acquire the interest in that land was ...	the amount of the vacancy fee for each dwelling on that land is ...
		specified in the order or notification, at the time the order or notification was given (regardless of any regulations made for the purposes of section 11 of this Act).
	Note 1:	Part 6A of the Foreign Acquisitions Act sets out the liability of a foreign person for a vacancy fee.
	Note 2:	An order mentioned in item 6 of the table could specify that a foreign person may acquire interests in Australian land only to an extent specified in that order: see item 3 of the table in subsection 67(3) of the Foreign Acquisitions Act.
	Note 3:	Generally, regulations may lower the amount of a fee specified in Division 2 of this Part: see section 11. Fees specified in that Division are subject to indexation: see section 12.
	Note 4:	A residential land (near-new dwelling interests) certificate is an exemption certificate under section 43A of the Foreign Acquisitions Regulation.
	Note 5:	A residential land (other than established dwellings) certificate is an exemption certificate under section 43B of the Foreign Acquisitions Regulation.

*[Minister's second reading speech made in—
House of Representatives on 7 September 2017
Senate on 19 October 2017]*

(192/17)

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