



Foreign Acquisitions and Takeovers Fees Imposition Amendment Act 2020

No. 115, 2020

***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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Foreign Acquisitions and Takeovers Fees Imposition Amendment Act 2020

No. 115, 2020

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

[Assented to 10 December 2020]

The Parliament of Australia enacts:

1 Short title

This Act is the *Foreign Acquisitions and Takeovers Fees
Imposition Amendment Act 2020*.

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2020

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 later of: (a) the day after this Act receives the Royal Assent; and (b) the day Schedule 1 to the <i>Foreign Investment Reform (Protecting Australia's National Security) Act 2020</i> commences. However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	1 January 2021 (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Note: This table relates only to the provisions of this Act as originally enacted.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 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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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)

Repeal the following definitions:

- (a) definition of *base amount*;
- (b) definition of *base financial year*.

2 Subsection 4(1)

Insert:

indexation factor has the meaning given by section 8.

3 Subsection 4(1) (definition of *indexed amount*)

Repeal the definition.

4 Subsection 4(1) (definition of *index number*)

Repeal the definition, substitute:

index number has the meaning given by section 9.

5 Subsection 4(1) (definition of *internal reorganisation*)

Repeal the definition.

6 Subsection 4(1) (definition of *quarter*)

Repeal the definition, substitute:

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

7 Part 2

Repeal the Part, substitute:

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:

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

- (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.

8 Application of amendments

The amendments made by this Schedule apply in relation to fees that become payable on or after 1 January 2021.

*[Minister's second reading speech made in—
House of Representatives on 28 October 2020
Senate on 8 December 2020]*

(131/20)
