



Treasury Legislation Amendment (China-Australia Free Trade Agreement) Regulation 2015

Select Legislative Instrument No. 218, 2015

I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd),
Governor-General of the Commonwealth of Australia, acting with the
advice of the Federal Executive Council, make the following regulation.

Dated 26 November 2015

Peter Cosgrove
Governor-General

By His Excellency's Command

Scott Morrison
Treasurer

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1 Name

This is the *Treasury Legislation Amendment (China-Australia Free Trade Agreement) Regulation 2015*.

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.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table	The day after this instrument is registered.	28 November 2015
2. Schedule 1	The latest of: (a) the start of the day after this instrument is registered; and (b) the start of the day the China-Australia Free Trade Agreement, done at Canberra on 17 June 2015, enters into force for Australia; and (c) immediately after the commencement of the <i>Foreign Acquisitions and Takeovers Regulation 2015</i> . However, the provisions do not commence at all if either of the events mentioned in paragraphs (b) and (c) does not occur.	20 December 2015
3. Schedule 2	The later of: (a) the start of the day after this instrument is registered; and (b) the start of the day the China-Australia Free Trade Agreement, done at Canberra on 17 June 2015, enters into force for	20 December 2015

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Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
	Australia.	
	However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	

Note 1: This table relates only to the provisions of this instrument as originally made.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.

Note 2: The China-Australia Free Trade Agreement could in 2015 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

- (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 following Acts:

- (a) the *Foreign Acquisitions and Takeovers Act 1975*;
- (b) the *Life Insurance Act 1995*.

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.

Schedule 1—Amendment of the Foreign Acquisitions and Takeovers Regulation 2015

Foreign Acquisitions and Takeovers Regulation 2015

1 Section 5 (at the end of the definition of *agreement country*)

Add:

; (f) China.

2 Section 5

Insert:

relevant World Trade Organization member means any of the following members of the World Trade Organization established by the World Trade Organization Agreement:

- (a) Hong Kong, China;
- (b) Macao, China;
- (c) Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu.

World Trade Organization Agreement means the Marrakesh Agreement establishing the World Trade Organization, done at Marrakesh on 15 April 1994.

Note: The Agreement is in Australian Treaty Series 1995 No. 8 ([1995] ATS 8) and could in 2015 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

3 Subsection 7(2) (note)

Repeal the note, substitute:

Note: For references to a law of the United States of America or China, see sections 9 and 9A.

4 At the end of section 7

Add:

- (7) Without limiting subsection (6), an entity, or a branch of an entity, (within the ordinary meaning of the term) is not an *enterprise* of China if the Treasurer is satisfied that:

- (a) it is owned or controlled by one or more of the following:
 - (i) an individual who is usually resident in the territory of a relevant World Trade Organization member;
 - (ii) an entity that is constituted or organised under a law of a relevant World Trade Organization member; and
- (b) the entity or branch has no substantial business activities in China.

5 Subsection 8(1)

After “United States of America”, insert “or China”.

6 After subsection 8(2)

Insert:

Definition for China

- (2A) A ***national*** of China is an individual who is a national of China according to the law of China, other than an individual who is usually resident within the territory of a relevant World Trade Organization member.

7 After section 9

Insert:

9A References to China

In this instrument, a reference (whether or not expressly) to China does not include a reference to a relevant World Trade Organization member.

Note: For example, a reference to the law of China does not include a reference to the law of a relevant World Trade Organization member.

Schedule 2—Amendment of the Life Insurance Regulations 1995

Life Insurance Regulations 1995

1 Regulation 1.03

Insert:

World Trade Organization Agreement means the Marrakesh Agreement establishing the World Trade Organization, done at Marrakesh on 15 April 1994.

Note: The Agreement is in Australian Treaty Series 1995 No. 8 ([1995] ATS 8) and could in 2015 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

2 Regulation 2B.01

Before “For”, insert “(1)”.

3 At the end of regulation 2B.01

Add:

; (e) the body corporate:

(i) is authorised to carry on life insurance business in China; and

(ii) is incorporated in China.

(2) In paragraph (1)(e), a reference to China does not include a reference to the following members of the World Trade Organization established by the World Trade Organization Agreement:

(a) Hong Kong, China;

(b) Macao, China;

(c) Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu.