

Foreign Acquisitions and Takeovers Amendment (Government Infrastructure) Regulation 2016

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 24 March 2016

Peter Cosgrove

Governor‑General

By His Excellency’s Command

Scott Morrison

Treasurer

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1 Name

This is the *Foreign Acquisitions and Takeovers Amendment (Government Infrastructure) Regulation 2016*.

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. The whole of this instrument | 31 March 2016. | 31 March 2016 |

Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Foreign Acquisitions and Takeovers Regulation 2015

1 Section 5

Insert:

***inter‑modal transfer facility*** has the meaning given by the *National Land Transport Act 2014*.

2 Subsection 31(2)

Repeal the subsection, substitute:

(2) However, subsection (1) does not apply in relation to:

(a) an acquisition of an interest by a foreign government investor; or

(b) an acquisition of an interest in Australian land if the interest is, or includes, an interest in any of the following infrastructure:

(i) public infrastructure, except in relation to public roads;

(ii) infrastructure for existing or proposed roads, existing or proposed railways, or existing or proposed inter‑modal transfer facilities, within the National Land Transport Network (within the meaning of the *National Land Transport Act 2014*);

(iii) infrastructure for existing or proposed roads, existing or proposed railways, or existing or proposed inter‑modal transfer facilities, that are designated under a law of a State or Territory as either significant or controlled by the State or Territory;

(iv) the infrastructure (or part of the infrastructure) of a telecommunications network;

(v) a nuclear facility; or

Note: The infrastructure mentioned in this paragraph is relevant to national security.

(c) an Australian business that holds an interest in Australian land to which paragraph (b) applies.

Example: A result of paragraph (c) applying to an Australian business is that an acquisition of an interest in the business, in a corporation that carries on the business or in a holding company of such a corporation might be a ***significant action***: see sections 40 and 41 of the Act.

3 At the end of Part 7

Add:

67 Application of *Foreign Acquisitions and Takeovers Amendment (Government Infrastructure) Regulation 2016*

Paragraphs 31(2)(b) and (c), as amended by the *Foreign Acquisitions and Takeovers Amendment (Government Infrastructure) Regulation 2016*, do not apply in relation to an agreement that:

(a) relates to the acquisition of an interest in Australian land, or to an Australian business; and

(b) was entered into before 31 March 2016.