



# **Register of Foreign Ownership of Water or Agricultural Land Rules 2017**

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I, Michael Sven Sukkar, Assistant Minister to the Treasurer, make the following rules.

Dated 28 June 2017

Michael Sven Sukkar  
Assistant Minister to the Treasurer

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## Part 1—Preliminary

### 1 Name

This instrument is the *Register of Foreign Ownership of Water or Agricultural Land Rules 2017*.

### 2 Commencement

This instrument commences on 1 July 2017.

### 3 Authority

This instrument is made under section 35(1) of the *Register of Foreign Ownership of Water or Agricultural Land Act 2015*.

### 4 Definitions

In this instrument:

*Act* means the *Register of Foreign Ownership of Water or Agricultural Land Act 2015*.

*foreign person* has the same meaning as in the *Foreign Acquisitions and Takeovers Act 1975*.

*holding entity* has the same meaning as in the *Foreign Acquisitions and Takeovers Act 1975*.

*irrigation infrastructure operator* has the same meaning as in the *Water Act 2007*.

*irrigation right* has the same meaning as in the *Water Act 2007*.

*moneylending agreement* has the same meaning as in the *Foreign Acquisitions and Takeovers Regulation 2015*.

*subsidiary* has the same meaning as in the *Foreign Acquisitions and Takeovers Act 1975*.

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## **Part 2—Kinds of land that is not agricultural land**

### **5 Land that is not agricultural land**

For section 5 of the Act, land is not agricultural land for the purposes of the Act if the land is not agricultural land for the purposes of the *Foreign Acquisitions and Takeovers Act 1975* because of the *Foreign Acquisitions and Takeovers Regulation 2015*.

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## Part 3—Kinds of rights that are not registrable water entitlements

### 6 Private harvestable rainwater rights

For paragraph 5A(2)(d) of the Act, a **registrable water entitlement** does not include a right, conferred by or under a law of a State or Territory, to capture, store or take rainfall for stock and domestic purposes.

### 7 Certain rights held by an irrigation infrastructure operator

- (1) For paragraph 5A(2)(d) of the Act, a **registrable water entitlement** does not include a right held by an irrigation infrastructure operator to the extent that another person has an irrigation right in relation to water that may be held or taken from a water resource by the irrigation infrastructure operator.
- (2) For paragraph 5A(2)(d) of the Act, a **registrable water entitlement** does not include a right held by an irrigation infrastructure operator to the extent that it is conveyance water.  
Note: Any right that an irrigation infrastructure operator retains after allowing for the operation of this subsections (1) and (2) may be a **registrable water entitlement** for s 5A(1) of the Act.
- (3) For the purposes of subsection (2), conveyance water means the additional water that is required to deliver water to water users, including water lost in transit from its source to end users due to seepage, leakage, evaporation or other similar effects.
- (4) Subsection (1) and (2) applies whether the person started to hold the right described in that subsection before, on or after the commencement of this section.

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## Part 4—Exemptions from requirements to give notice

### 8 Exemption for persons holding freehold interests or other rights because of enforcement of securities for moneylending agreements

- (1) For section 30 of the Act, Part 3 of the Act does not apply to a person if:
- (a) the person started to hold the person's :
    - (i) freehold interest in agricultural land; or
    - (ii) right to occupy agricultural land described in 19(1)(b), 21(b), 22(b), 23(b), 24(b), 25(b) or 26(b) of the Act;by way of enforcement of a security held solely for the purposes of a moneylending agreement; and
  - (b) the person is either:
    - (i) the person (the *first person*) who entered the moneylending agreement; or
    - (ii) a subsidiary or holding entity of the first person.
- (2) Subsection (1) applies whether the person started to hold the right as described in that subsection before, on or after the commencement of this section.

### 9 Exemption for persons holding water entitlements or contractual water rights because of enforcement of securities for moneylending agreements

- (1) For section 30U of the Act, Part 3B of the Act does not apply to a person if:
- (a) the person started to hold the person's :
    - (i) registrable water entitlement; or
    - (ii) contractual water right described in paragraph 30H(1)(b), 30L(b) 30M(b), 30N(b), 30P(b), or 30Q(b) of the Act;by way of enforcement of a security held solely for the purposes of a moneylending agreement; and
  - (b) the person is either:
    - (i) the person (the *first person*) who entered the moneylending agreement; or
    - (ii) a subsidiary or holding entity of the first person.
- (2) Subsection (1) applies whether the person started to hold the right as described in that subsection before, on or after the commencement of this section.

### 10 Exemption for persons in which foreign custodian corporations have interests

- (1) For section 30 of the Act, Part 3 of the Act does not apply to a foreign person at a particular time if, at that time, the conditions in subsection 41A(2) of the *Foreign Acquisition and Takeover Regulation 2015* are met in relation to the foreign person.



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(2) For section 30U of the Act, Part 3B of the Act does not apply to a foreign person at a particular time if, at that time the conditions in subsection 41A(2) of the *Foreign Acquisition and Takeover Regulation 2015* are met in relation to the foreign person.

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## **Schedule 1—Repeals**

### ***Register of Foreign Ownership of Agricultural Land Rule 2015***

#### **1 The whole of the instrument**

Repeal the instrument.