



Foreign Investment Reform (Protecting Australia's National Security) (Transitional Provisions—Residential Land) Rules 2024

I, Jim Chalmers, Treasurer, make the following rules.

Dated 27 June 2024

Dr Jim Chalmers
Treasurer

Contents

| | |
|---|---|
| Part 1—Preliminary | 1 |
| 1 Name..... | 1 |
| 2 Commencement..... | 1 |
| 3 Authority..... | 1 |
| 4 Definitions..... | 1 |
| Part 2—Transitional rules relating to the Register of Foreign Ownership of Australian Assets | 3 |
| 5 Information obtained before the Register commencement day..... | 3 |
| 6 Registered circumstance..... | 3 |
| 7 Registrar to give notice of registered circumstance..... | 4 |

Part 1—Preliminary

1 Name

This instrument is the *Foreign Investment Reform (Protecting Australia's National Security) (Transitional Provisions—Residential Land) Rules 2024*.

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 | Immediately after this instrument is registered. | |

Note: This table relates only to the provisions of this instrument as originally made.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 Investment Reform (Protecting Australia's National Security) Act 2020*.

Note: Item 24 of Schedule 3 to the *Foreign Investment Reform (Protecting Australia's National Security) Act 2020* provides that the Minister may, by legislative instrument, make certain rules of a transitional nature.

4 Definitions

Note: Expressions have the same meaning in this instrument as in Part 4 of Schedule 3 to the *Foreign Investment Reform (Protecting Australia's National Security) Act 2020* as in force from time to time—see paragraph 13(1)(b) of the *Legislation Act 2003*. For example, the **Act** means the *Foreign Acquisitions and Takeovers Act 1975*.

In this instrument:

exemption certificate has the meaning given by the Act.

foreign person has the meaning given by the Act.

interest, in relation to an interest in Australian land (however described), has the meaning given by the Act.

Section 4

no objection notification has the meaning given by the Act.

notice imposing conditions has the meaning given by the Act.

Register has the meaning given by the Act.

Register commencement day has the meaning given by the Act.

Registrar has the meaning given by the Act.

residential land has the meaning given by the Act.

taxation officer has the meaning given by the *Income Tax Assessment Act 1997*.

Part 2—Transitional rules relating to the Register of Foreign Ownership of Australian Assets

5 Information obtained before the Register commencement day

- (1) For the purposes of paragraph 24(1)(b) of Schedule 3 to the *Foreign Investment Reform (Protecting Australia's National Security) Act 2020*, the Commissioner of Taxation must cause the information covered by subsection (2) to be given to the Registrar on or before 1 July 2025.

Note: The Registrar may add to the Register the information the Registrar obtains under subsection (1)—see section 130U of the Act.

- (2) Information is covered by this subsection if:
- (a) the information relates to an interest in residential land that was acquired by a foreign person between 1 July 2016 and the day before the Register commencement day (other than an interest that is taken to have been acquired only because of section 15 of the Act); and
 - (b) the information was obtained between 1 July 2016 and the day before the Register commencement day by a taxation officer (including as a delegate or subdelegate of the Treasurer) in accordance with the Act (including any type of instrument, notice, certificate, or condition, made or issued under the Act).

6 Registered circumstance

- (1) For the purposes of paragraph 24(1)(c) of Schedule 3 to the *Foreign Investment Reform (Protecting Australia's National Security) Act 2020*, a registered circumstance is to be taken to exist for the purposes of the Act in relation to a foreign person in each of the circumstances set out in an item of the following table:

| Item | Where: | But only if: |
|------|--|--|
| 1 | Both of the following apply: <ol style="list-style-type: none"> (a) at any time before the Register commencement day, a foreign person acquired an interest in residential land; (b) at any time before 30 June 2024, one of the following was issued to the person in relation to the acquisition: <ol style="list-style-type: none"> (i) a no objection notification; (ii) a notice imposing conditions; (iii) an exemption certificate. | All of the following apply: <ol style="list-style-type: none"> (a) the notification, notice or certificate imposed a condition that the foreign person notify (however described) a taxation officer (however described) of the acquisition; (b) the person did <i>not</i> notify a taxation officer of the acquisition before 30 June 2024; (c) at the start of the Register commencement day, the foreign person: <ol style="list-style-type: none"> (i) was still a foreign person; and (ii) still held an interest the residential land. |
| 2 | At any time before the Register commencement day, a foreign person: | All of the following apply: |

Section 7

| Item | Where: | But only if: |
|------|--|--|
| | <ul style="list-style-type: none"> (a) acquired an interest in residential land; and (b) was required under section 81 of the Act to give a notice to the Treasurer before making the acquisition. | <ul style="list-style-type: none"> (a) the foreign person did <i>not</i> give notice to the Treasurer of the acquisition before 30 June 2024; (b) a no objection notification was <i>not</i> given in relation to the acquisition before 30 June 2024; (c) at the start of the Register commencement day, the foreign person: <ul style="list-style-type: none"> (i) was still a foreign person; and (ii) still held an interest the residential land. |
| 3 | The Commissioner of Taxation is required to cause information relating to an acquisition of an interest in residential land by a foreign person under subsection 5(1) of this instrument be given to the Registrar. | Both of the following apply: <ul style="list-style-type: none"> (a) a registered circumstance is <i>not</i> otherwise taken to exist, or to have ever existed, in relation to the foreign person in relation to the acquisition; (b) at the start of the Register commencement day, the foreign person: <ul style="list-style-type: none"> (i) was still a foreign person; and (ii) still held an interest the residential land. |

- (2) A registered circumstance, that is taken to exist for the purposes of the Act under subsection (1), begins to apply on 30 June 2024.
- (3) A registered circumstance, that is taken to exist for the purposes of the Act under subsection (1), ceases to apply immediately after it begins to apply if:
 - (a) at the time it begins to apply, either of the following apply:
 - (i) the foreign person was no longer a foreign person;
 - (ii) the foreign person no longer held an interest in the residential land; or
 - (b) just before 1 January 2026, the Registrar has *not* given the foreign person a written notice under subsection 7(1).
- (4) A registered circumstance, that is taken to exist for the purposes of the Act under subsection (1), ceases to apply if the foreign person stops holding an interest in the residential land after 30 June 2024.

7 Registrar to give notice of registered circumstance

- (1) For the purposes of paragraph 24(1)(e) of Schedule 3 to the *Foreign Investment Reform (Protecting Australia's National Security) Act 2020*, the Registrar must, on or before 31 December 2025, give a foreign person written notice of:
 - (a) each registered circumstance that arises in relation to them under section 6; and
 - (b) the obligations that are imposed, or that may be imposed, on them in accordance with the Act, in relation to each registered circumstance.

- (2) Subsection (1) does not apply in relation to a registered circumstance that ceased to apply, immediately after it began to apply, because of paragraph 6(3)(a).