Foreign Investment Reform (Protecting Australia's National Security) Act 2020

No. 114, 2020

An Act to amend the law relating to foreign acquisitions and takeovers, 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 Investment Reform (Protecting Australia's National Security) Act 2020

No. 114, 2020

An Act to amend the law relating to foreign acquisitions and takeovers, and for related purposes

[*Assented to 10 December 2020*]

The Parliament of Australia enacts:

1 Short title

This Act is the *Foreign Investment Reform (Protecting Australia's National Security) Act 2020*.

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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. Sections 1 to 5 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	10 December 2020
2. Schedule 1	1 January 2021.	1 January 2021
3. Schedule 2, Parts 1 and 2	At the same time as the provisions covered by table item 2.	1 January 2021
4. Schedule 2, Part 3	The later of: (a) immediately after the commencement of the provisions covered by table item 2; and (b) immediately after the commencement of the *Federal Circuit and Family Court of Australia Act 2020*. However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	
5. Schedule 3, Part 1	Immediately after the commencement of the provisions covered by table item 2.	1 January 2021
6. Schedule 3, Parts 2 and 3	A single day to be fixed by Proclamation. However, if the provisions do not commence within the period of 4 years beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	
7. Schedule 3, Part 4	At the same time as the provisions covered by table item 5.	1 January 2021

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Note: This table relates only to the provisions of this Act as originally enacted.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.

4 Evaluation of operation of this Act and related legislation

(1) The Secretary must conduct an evaluation of the reforms implemented by this Act and the *Foreign Acquisitions and Takeovers Fees Imposition Amendment Act 2020* (***the foreign investment reform Acts***), including:

(a) legislative instruments made under the *Foreign Acquisitions and Takeovers Act 1975* and the *Foreign Acquisitions and Takeovers Fees Imposition Act 2015* to implement the foreign investment reform Acts; and

(b) administrative changes made to implement the foreign investment reform Acts.

(2) The evaluation must start as soon as practicable, and in any event within 1 month, after this section commences.

(3) The Secretary must give the Treasurer a written report of the evaluation before the end of the period of 12 months beginning on the day this section commences.

(3) Without limiting subsection (1), the evaluation and report must consider:

(a) the impact that the foreign investment reform Acts and their implementation have had on foreign investment in Australia and the broader Australian economy; and

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(b) whether the right balance is struck between welcoming foreign investment and protecting Australia's national interests.

(4) The Treasurer must cause a copy of the report to be tabled in each House of the Parliament within 15 sitting days of that House after the report is given to the Treasurer.

(5) The Secretary must publish a copy of the report on the Department's website by no later than the day on which the report is tabled.

5 Delegation

(1) The Secretary may, in writing, delegate the Secretary's powers or functions under section 4 to a person engaged under the *Public Service Act 1999* who is employed in the Department.

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Schedule 1—Main amendments

Part 1—Amendment of the Foreign Acquisitions and Takeovers Act 1975

Foreign Acquisitions and Takeovers Act 1975

1 Section 3 (paragraph beginning "This Act deals with")

After "the action must", insert "in most cases".

2 Section 3

After:

> This Act deals with certain actions to acquire interests in securities, assets or Australian land, and actions taken in relation to entities (being corporations and unit trusts) and businesses, that have a connection to Australia. These actions are called significant actions. For an action to be a significant action, the action must result in a change in control involving a foreign person or be taken by a foreign person.

insert:

> This Act also deals with actions taken by persons that have, or may have, implications for Australia's national security. These actions may or may not be significant actions. Actions relating to a national security business or national security land are notifiable national security actions. If an action is a reviewable national security action, or a significant action that is not a notifiable action or a notifiable national security action, the Treasurer may review the action if the Treasurer considers that the action may pose a national security concern.

3 Section 3

Omit "has taken a significant action", substitute "has taken an action".

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4 Section 3

Omit "Some significant actions (called notifiable actions) must also be", substitute "Significant actions that are notifiable actions, and notifiable national security actions, must generally be".

5 Section 3

Omit "If a notice", substitute "Broadly, if a notice".

6 Section 4

Insert:

AAT Act means the *Administrative Appeals Tribunal Act 1975*.

7 Section 4 (definition of *acquire*)

Repeal the definition, substitute:

acquire an interest of a specified percentage:

(a) in a business—has the meaning given by section 19A; and

(b) in an entity—has the meaning given by section 20.

8 Section 4

Insert:

business includes any activity carried on by:

(a) the Commonwealth, a State, a Territory or a local governing body; or

(b) a body corporate established for a public purpose by or under a law of the Commonwealth, a State or a Territory; or

(c) an entity wholly owned by the Commonwealth, a State, a Territory, a local governing body or a body corporate covered by paragraph (b).

9 Section 4 (definition of *Commonwealth entity*)

Repeal the definition.

10 Section 4 (definition of *constituent document*)

Repeal the definition, substitute:

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constituent document of an entity or unincorporated limited partnership means any rules or other document constituting or establishing the entity or partnership or governing its activities, and includes:

(a) for a corporation—the constitution of the corporation; and

(b) for a unit trust—the trust deed for the trust; and

(c) for an unincorporated limited partnership—the partnership agreement.

11 Section 4

Insert:

core Part 3 action means any of the following:

(a) a significant action (other than an action mentioned in paragraph (b));

(b) any of the following actions:

(i) a notifiable national security action that is not a significant action;

(ii) an action in respect of which the Treasurer has given notice under subsection 66A(4);

(iii) a reviewable national security action that is notified to the Treasurer.

12 Section 4 (definition of *decision period*)

Omit "77(5)", substitute "77(8)".

13 Section 4 (definition of *general meeting*)

Repeal the definition, substitute:

general meeting of an entity or unincorporated limited partnership means:

(a) for a corporation—a general meeting of the corporation; or

(b) for a unit trust—a meeting of unit holders of the trust that is held in accordance with a constituent document of the trust; or

(c) for an unincorporated limited partnership—a meeting of partners of the partnership that is held in accordance with a constituent document of the partnership.

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14 Section 4

Insert:

general partner means a partner of a limited partnership whose liability relating to the partnership is not limited.

head has the same meaning as in the *Office of National Intelligence Act 2018*.

15 Section 4 (after paragraph (c) of the definition of *interest*)

Insert:

(ca) in an unincorporated limited partnership—has the meaning given by section 11A; and

16 Section 4 (after paragraph (d) of the definition of *interest*)

Insert:

(da) in a business—has the meaning given by section 16A; and

17 Section 4 (after paragraph (e) of the definition of *interest*)

Insert:

; and (f) of a specified percentage in an unincorporated limited partnership—has the meaning given by subsection 17(2A).

18 Section 4

Insert:

limited partner means a partner of a limited partnership whose liability relating to the partnership is limited.

limited partnership means an association of persons that:

(a) was formed solely for the purposes of becoming a partnership where the liability of at least one partner relating to the partnership is limited; and

(b) is recognised under a law of the Commonwealth, a State, a Territory, a foreign country or a part of a foreign country as such a partnership.

national intelligence community has the same meaning as in the *Office of National Intelligence Act 2018*.

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national security business has the meaning prescribed by the regulations.

national security land has the meaning prescribed by the regulations.

19 Section 4 (definition of *no objection notification*)

Repeal the definition, substitute:

no objection notification means:

(a) a written notification given under subsection 74(2) and includes such a notification as varied under section 74, 76 or 79G; or

(b) a written notification given under subsection 75(2) and includes such a notification as varied under section 76 or 79G.

20 Section 4

Insert:

notice imposing conditions means a written notice given under subsection 79H(1) and includes such a notice as varied under section 79J, 79P or 79Q.

notifiable national security action has the meaning given by section 55B.

reviewable decision means a decision of the Treasurer under Division 3 of Part 3 that a national security risk exists in relation to an action.

reviewable national security action has the meaning given by Division 4B of Part 2.

starts a national security business has the meaning given by section 8A.

starts an Australian business has the meaning given by section 8B.

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21 Section 4 (definition of *substantial interest*)

Omit "entity or trust", substitute "entity, trust or unincorporated limited partnership".

22 Section 4 (paragraph (a) of the definition of *substantial interest*)

Repeal the paragraph, substitute:

(a) for an entity or unincorporated limited partnership—the person holds an interest of at least 20% in the entity or partnership; or

23 Section 4 (note 1 to the definition of *substantial interest*)

After "entity", insert "or unincorporated limited partnership".

24 Section 4

Insert:

Tribunal means the Administrative Appeals Tribunal.

25 At the end of subsection 6(3)

Add:

; or (h) both of the following apply:

(i) both are partners of a limited partnership;

(ii) at least one of them is a limited partner that is not in a position (whether alone or together with one or more persons who are, or would apart from this paragraph be, that partner's associates) to participate in the management and control of the partnership, or of any of the general partners of the partnership, in relation to any matter.

26 At the end of section 8

Add:

(3) Without limiting subsection (1), a business is taken to be an ***Australian business*** for the purposes of this Act if:

(a) the business is carried on wholly or partly in Australia, whether or not in anticipation of profit or gain, by:

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(i) the Commonwealth, a State, a Territory or a local governing body; or

(ii) a body corporate established for a public purpose by or under a law of the Commonwealth, a State or a Territory; or

(iii) an entity wholly owned by the Commonwealth, a State, a Territory, a local governing body or a body corporate covered by subparagraph (ii); and

(b) the business would, or could, be carried on in anticipation of profit or gain if it were carried on by someone other than:

(i) a body referred to in subparagraph (a)(i) or (ii); or

(ii) an entity referred to in subparagraph (a)(iii); or

(iii) a foreign government; or

(iv) a separate government entity.

27 After section 8

Insert:

8A Meaning of starts a national security business

(1) A foreign person ***starts a national security business*** if the foreign person starts to carry on a national security business.

(2) Despite subsection (1), if a foreign person carries on a national security business, the person does not ***start a national security business*** merely because the foreign person, alone or together with one or more persons, establishes a new entity:

(a) that carries on the same national security business; or

(b) for the purposes of acquiring interests in assets of the same national security business.

8B Meaning of starts an Australian business

(1) A foreign person ***starts an Australian business*** if:

(a) the foreign person starts to carry on an Australian business; or

(b) for a foreign person who already carries on an Australian business—the business starts a new activity that:

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(i) is not incidental to an existing activity of the Australian business; and

(ii) is within a different Division under the Australian and New Zealand Standard Industrial Classification Codes from the current activities of the Australian business.

(2) Despite subsection (1), if a foreign person carries on an Australian business, the person does not ***start an Australian business*** merely because the foreign person, alone or together with one or more persons, establishes a new entity:

(a) that carries on the same Australian business; or

(b) for the purposes of acquiring interests in assets of the same Australian business.

28 Subsection 9(1) (note 2)

Omit "and trusts", substitute ", trusts and unincorporated limited partnerships".

29 At the end of section 9

Add:

Buying-back securities

(6) The buying-back of a security in an entity by the entity does not constitute an acquisition by the entity of an interest in a security in the entity.

30 Sections 10 and 11 (note 2)

Omit "and trusts", substitute ", trusts and unincorporated limited partnerships".

31 After section 11

Insert:

11A Meaning of *interest* in an unincorporated limited partnership

A person holds an ***interest*** in an unincorporated limited partnership if the person:

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(a) is in a position to control all or any of the voting power or potential voting power in the partnership; or
(b) is entitled to any or all of the distributions of capital, assets or profits of the partnership on the dissolution of the partnership; or
(c) is entitled to any or all of the distributions of capital, assets or profits of the partnership otherwise than on the dissolution of the partnership.

Note: See also section 19 (tracing of substantial interests in corporations, trusts and unincorporated limited partnerships).

32 Paragraph 15(4)(a)

Repeal the paragraph, substitute:

(a) Part 4 (notices required for notifiable actions and notifiable national security actions, and may be given of other actions);

33 Subsection 15(5) (note)

Repeal the note, substitute:

Note: As a result of this subsection, the person acquires or sells the interest only when the provisions become binding. If the provisions do not become binding until one or more conditions are met, and one of those conditions is met only when the Treasurer has given an exemption certificate or no objection notification, then the person does not acquire or sell the interest before the Treasurer has given an exemption certificate or no objection notification.

34 After section 16

Insert:

16A Meaning of interest of a specified percentage in a business

A person holds an ***interest*** of a specified percentage in a business if the value of the interests in assets of the business held by the person, alone or together with one or more associates of the person, is that specified percentage of the value of the total assets of the business.

Note 1: See also paragraph (a) of the definition of ***acquire***.

Note 2: A percentage may be specified by referring to:
(a) "20%"; or

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(b) "any percentage"; or
(c) a "direct interest"; or
(d) a percentage that a person holds in other assets.

35 Section 17 (at the end of the heading)

Add "**or unincorporated limited partnership**".

36 After subsection 17(2)

Insert:

*Meaning of **interest** of a specified percentage in an unincorporated limited partnership*

(2A) A person holds an ***interest*** of a specified percentage in an unincorporated limited partnership if the person, alone or together with one or more associates of the person:
(a) is in a position to control at least that percentage of the voting power or potential voting power in the partnership; or
(b) is entitled to at least that percentage of the total distributions of capital, assets or profits of the partnership on the dissolution of the partnership; or
(c) is entitled to at least that percentage of the total distributions of capital, assets or profits of the partnership otherwise than on the dissolution of the partnership.

37 Subsection 17(3)

After "entity", insert "or unincorporated limited partnership".

38 After section 18

Insert:

18A Increasing percentage of interests without acquiring additional interests in securities

Effect of increase—person is taken to take an action of acquiring an interest in securities

(1) A person is taken to take an action of acquiring an interest in securities in an entity if:

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(a) the person holds an interest of a particular percentage in the entity; and

(b) the percentage interest that the person holds increases without the person acquiring interests in securities in the entity.

Note: The combined effect of this subsection and other provisions of this Act may be that the person takes:

(a) a significant action because of paragraph 40(2)(a) or (b) or 43(a) or section 44; or

(b) a notifiable action because of paragraph 47(2)(a), (b) or (c) or section 48; or

(c) a notifiable national security action because of paragraph 55B(1)(c) or (d); or

(d) a reviewable national security action because of paragraph 55D(1)(a) or 55F(a).

Effect of potential increase—person is taken to propose to take an action of acquiring an interest in securities

(2) A person is taken to propose to take an action of acquiring an interest in securities in an entity if:

(a) the person holds an interest of a particular percentage in the entity; and

(b) there are reasonable grounds to believe that the percentage interest that the person holds may increase without the person acquiring interests in securities in the entity.

(3) Paragraph (2)(b) applies whether or not any person actually has the belief mentioned in that paragraph.

Modification of this Act

(4) The following table has effect:

Increasing percentage of interests without acquiring additional interests in securities—modification of this Act		
Item	**The following provisions of this Act …**	**apply in relation to an action or proposed action that is taken to occur because of subsection (1) or (2) of this section as if …**
1	subsection 20(1) (meaning of	subsection 20(1) provided that the

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Increasing percentage of interests without acquiring additional interests in securities—modification of this Act		
Item	**The following provisions of this Act …**	**apply in relation to an action or proposed action that is taken to occur because of subsection (1) or (2) of this section as if …**
	acquire an interest of a specified percentage in an entity)	taking of the action resulted in the person acquiring an interest in the entity of the percentage that the person holds immediately after the action is taken.
2	paragraphs 47(2)(a) and (b) (meaning of ***notifiable action***)	those paragraphs only applied where the foreign person did not hold a direct interest or substantial interest (as the case requires) in the entity immediately before the action is taken.
3	item 1 of the table in section 51 (threshold test—acquiring a direct interest in an Australian entity that is an agribusiness)	the value mentioned in column 2 of that item were the total value, immediately after the action is taken, of all interests held by the person, alone or together with one or more associates: (a) in the entity; or (b) previously acquired from the entity.
4	paragraph 55B(1)(c) (meaning of ***notifiable national security action*****)**	that paragraph only applied where the foreign person did not hold a direct interest in the entity immediately before the action is taken.
5	subsections 67(2) and 69(2) (orders)	subsections 67(2) and 69(2) authorised the Treasurer to make (subject to subsection (5) of this section) an order directing the person to do within a specified period, or refrain from doing, specified acts or acts of a specified kind, and no other kind of order.
6	subsection 69(5) (extension of	subsection 69(5) applied in relation

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Increasing percentage of interests without acquiring additional interests in securities—modification of this Act		
Item	**The following provisions of this Act …**	**apply in relation to an action or proposed action that is taken to occur because of subsection (1) or (2) of this section as if …**
	periods specified in certain disposal orders)	to an order made under subsection 67(2) or 69(2), as those subsections apply because of item 5 of this table.
7	section 77 (time limit on making orders and decisions)	subsection 77(3) were omitted and column 2 of item 1 of the table in subsection 77(6) referred to the following events: (a) the Treasurer receives a notice from a person stating that the action is proposed to be taken, before the action is taken; (b) the Treasurer receives a notice from a person, stating that the action has been taken, before the end of 30 days after the action is taken.
8	subsections 79D(2) and 79E(2) (orders—last resort powers)	subsections 79D(2) and 79E(2) authorised the Treasurer to make (subject to subsection (5) of this section) an order directing the person to do within a specified period, or refrain from doing, specified acts or acts of a specified kind, and no other kind of order.
9	subsection 79E(4) (extension of periods specified in certain disposal orders made in exercise of last resort powers)	subsection 79E(4) applied in relation to an order made under subsection 79D(2) or 79E(2), as those subsections apply because of item 8 of this table.
10	items 1 and 2 of the table in subsection 101AA(3) (threshold for distinction between tier 2 infringement notices and tier 3 infringement notices)	the value for the action mentioned in the relevant item were the total value, immediately after the action is taken, of all interests held by the person, alone or together with one or

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Increasing percentage of interests without acquiring additional interests in securities—modification of this Act		
Item	**The following provisions of this Act …**	**apply in relation to an action or proposed action that is taken to occur because of subsection (1) or (2) of this section as if …**
		more associates: (a) in the entity; or (b) previously acquired from the entity.
11	(a) section 15 (interests acquired by entering agreements or acquiring options); (b) section 68 (interim orders); (c) subparagraph 74(1)(c)(iii) (no objection notification imposing conditions); (d) paragraph 79A(3)(b) and subsection 79A(4) (notice of national security review prohibits taking of action until review completed); (e) section 85A (offence for taking action while prohibited by this Act); (f) section 92A (civil penalty for taking action while prohibited by this Act)	those provisions were omitted.

Purpose for which orders may be made

(5) An order may be made under subsection 67(2), 69(2), 79D(2) or 79E(2) as those subsections apply because of the table in subsection (4) of this section, only for the purpose of restoring the percentage of interests that the person holds in the entity as nearly as possible to the percentage interest that the person held immediately before it increased.

Further modifications

(6) This Act also applies in relation to an action or proposed action that is taken to occur because of subsection (1) or (2) of this section with the modifications prescribed by the regulations.

39 Section 19 (heading)

Omit "**and trusts**", substitute "**, trusts and unincorporated limited partnerships**".

40 Subsections 19(1) and (2)

Repeal the subsections, substitute:

Tracing—general

(1) Subsection (2) applies (subject to subsection (3)) if:

(a) a person holds a substantial interest in:

(i) a corporation (the ***higher party***); or

(ii) a trust (a trustee of which is a ***higher party***); or

(iii) an unincorporated limited partnership (a general partner of which is a ***higher party***);

including because of one or more applications of this section; and

(b) the higher party:

(i) is in a position to control all or any of the voting power or potential voting power in a corporation or unincorporated limited partnership (the ***lower party***); or

(ii) holds interests in all or any of the shares in a corporation (the ***lower party***); or

(iii) holds an interest in a trust or unincorporated limited partnership (the ***lower party***), other than the partnership mentioned in subparagraph (a)(iii) (if that subparagraph applies).

(2) For the purposes of this Act:

(a) if subparagraph (1)(b)(i) applies—the person is taken to be in a position to control the voting power or potential voting power in the lower party that the higher party is in a position to control; or

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(b) if subparagraph (1)(b)(ii) applies—the person is taken to hold the interests in the shares in the lower party that the higher party holds; or

(c) if subparagraph (1)(b)(iii) applies—the person is taken to hold the interest in the lower party that the higher party holds.

Tracing—effect of intermediate unincorporated limited partnerships

(2A) Subsection (2B) applies (subject to subsection (3)) if:

(a) a person holds a substantial interest in an unincorporated limited partnership (the ***higher partnership***); and

(b) there are one or more unincorporated limited partnerships (each of which is an ***intermediate partnership*** in relation to the higher partnership) that are general partners of:

(i) the higher partnership; or

(ii) another intermediate partnership in relation to the higher partnership (because of one or more applications of this paragraph); and

(c) a general partner (the ***intermediate partner***) of any of those intermediate partnerships:

(i) is in a position to control all or any of the voting power or potential voting power in a corporation or another unincorporated limited partnership (the ***lower party***), including because of the operation of paragraph (2)(a); or

(ii) holds interests in the shares of a corporation (the ***lower party***), including because of the operation of paragraph (2)(b); or

(iii) holds an interest in a trust or another unincorporated limited partnership (the ***lower party***), including because of the operation of paragraph (2)(c).

(2B) For the purposes of this Act:

(a) if subparagraph (2A)(c)(i) applies—the person is taken to be in a position to control the voting power or potential voting power in the lower party that the intermediate partner is in a position to control; or

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(b) if subparagraph (2A)(c)(ii) applies—the person is taken to hold the interests in the shares in the lower party that the intermediate partner holds; or

(c) if subparagraph (2A)(c)(iii) applies—the person is taken to hold the interest in the lower party that the intermediate partner holds.

Section does not apply for certain purposes

41 After section 19

Insert:

19A Meaning of acquire an interest of a specified percentage in a business

(1) A person ***acquires*** an interest of a specified percentage in a business if the person:

(a) starts to hold an interest of that percentage in the business; or

(b) would start to hold an interest of that percentage in the business on the assumption that the person held interests in assets of the business that are interests that the person has offered to acquire; or

(c) for a person who already holds an interest of that percentage in the business:

(i) starts to hold additional interests in assets of the business; or

(ii) would start to hold additional interests in assets of the business if interests in assets of the business were transferred as the result of the exercise of rights of a kind mentioned in paragraph 15(1)(b) or (c).

Note: A percentage may be specified by referring to:
(a) "20%"; or
(b) "any percentage"; or
(c) a "substantial interest" or a "direct interest"; or
(d) a percentage that a person holds in another entity.

(2) For the purposes of subsection (1), a reference to a person offering to acquire interests in assets of a business includes a reference to a person making or publishing a statement (however expressed) that

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expressly or impliedly invites a holder of interests in assets to offer to dispose of interests in assets.

42 Subsection 21(1) (note)

Omit "or trusts", substitute ", trusts or unincorporated limited partnerships".

43 Subsection 22(1)

After "an entity", insert "or unincorporated limited partnership".

44 Subsection 22(1)

After "the entity", insert "or partnership".

45 Subsection 22(2)

After "an entity" (first occurring), insert "or unincorporated limited partnership".

46 Subsection 22(2)

After "the entity" (wherever occurring), insert "or partnership".

47 Subsection 22(3)

After "an entity", insert "or unincorporated limited partnership".

48 Paragraph 22(3)(a)

After "the entity", insert "or partnership".

49 Subsection 22(4)

After "an entity", insert "or unincorporated limited partnership".

50 Subsection 22(4)

After "the entity", insert "or partnership".

51 Section 23

After "an entity", insert "or unincorporated limited partnership".

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52 Section 29 (heading)

Omit "**and entities**", substitute "**, entities and unincorporated limited partnerships**".

53 Paragraph 29(b)

After "corporations", insert "and unincorporated limited partnerships".

54 Subsection 37(5)

Omit "paragraph (4)(a)", substitute "subsection (4)".

55 Part 2 (heading)

Repeal the heading, substitute:

Part 2—Actions to which this Act applies

56 Section 38

Repeal the section, substitute:

38 Simplified outline

> This Part defines the concepts of ***significant action***, ***notifiable action***, ***notifiable national security action*** and ***reviewable national security action***.
>
> The Treasurer has powers under Part 3 in respect of these kinds of actions.

57 Section 39 (paragraph beginning "Broadly")

After "the action must", insert "in most cases".

58 At the end of section 40

Add:

(7) However, the last condition in subsection (6) is not required to be met if:

(a) paragraph (2)(b) applies and the action is or is to be taken by a foreign person who controls the entity (whether alone or

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together with one or more associates) immediately before the action is or is to be taken; or

(b) paragraph (2)(c) applies and a foreign person controls the entity (whether alone or together with one or more associates) immediately before the action is or is to be taken.

59 At the end of section 41

Add:

(6) However, the third condition in subsection (5) is not required to be met if:

(a) paragraph (2)(b) applies; and

(b) the action is or is to be taken by a foreign person who controls the business (whether alone or together with one or more associates) immediately before the action is or is to be taken.

60 Section 46 (paragraph beginning "A notifiable action")

Omit "a proposed", substitute "an".

61 Section 46 (paragraph beginning "Unlike")

Omit "Unlike for a significant action, there", substitute "There".

62 Paragraph 47(2)(a)

Repeal the paragraph, substitute:

(a) to acquire a direct interest in:

(i) an Australian entity that is an agribusiness; or

(ii) an Australian business that is an agribusiness;

63 Subsection 47(4)

Omit "paragraph (2)(a) or (b)", substitute "subparagraph (2)(a)(i) or paragraph (b)".

64 Section 50 (paragraph beginning "Two important tests")

After "whether there has been a change in control.", insert "The threshold test is also important in determining whether an action is a notifiable action.".

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65 Section 50 (paragraph beginning "One or more persons")

Omit "One or more persons who hold a substantial interest or an aggregate substantial interest in an entity are taken to control the entity.", substitute "A person who holds a substantial interest in an entity is taken to control the entity.".

66 Section 51

Omit "a significant", substitute "an".

67 Section 51 (table, heading to column 1)

Omit "**Significant action**", substitute "**Kind of action**".

68 Section 51 (after table item 2)

Insert:

2A	Acquiring a substantial interest in an Australian entity	The higher of the following: (a) the total asset value for the entity; (b) the total issued securities value for the entity

69 Subsection 53(1)

Repeal the subsection (not including the heading), substitute:

(1) If:

(a) an action relating to an entity, business or land is covered by an agreement; and

(b) the threshold test is met in relation to the action and the entity, business or land;

the ***threshold test is met*** for the action even if the test is not met for another action covered by the agreement (whether or not relating to the same entity, business or land).

70 Subsection 53(2)

Omit "threshold test is met" (first occurring), substitute "***threshold test is met***".

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71 Paragraph 54(4)(b)

Repeal the paragraph, substitute:

(b) without limiting paragraph (a), in relation to the acquisition of interests in securities in an entity or an issue of securities in an entity—the person holds a substantial interest in the entity.

72 After section 55

Insert:

Division 4A—Meaning of notifiable national security action

Subdivision A—Simplified outline

55A Simplified outline

This Division defines the concept of a ***notifiable national security action***.

Subdivision B—Meaning of notifiable national security action

55B Meaning of notifiable national security action

(1) An action is a ***notifiable national security action*** if the action is taken, or proposed to be taken, by a foreign person and the action is any of the following:

(a) to start a national security business;

(b) to acquire a direct interest in a national security business;

(c) to acquire a direct interest in an entity that carries on a national security business;

(d) to acquire an interest in Australian land that, at the time of acquisition, is national security land;

(e) to acquire a legal or equitable interest in an exploration tenement in respect of Australian land that, at the time of acquisition, is national security land.

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(2) For the purposes of paragraph (1)(e), a person acquires a legal or equitable interest in an exploration tenement even if:
  (a) the person has previously acquired an interest in an exploration tenement; or
  (b) the interest is an increase in the amount of an existing interest of the person in an exploration tenement.

(3) The regulations may provide, in relation to exemption certificates in force under regulations made for the purposes of section 63, that an action of a specified kind is not a ***notifiable national security action***.

Division 4B—Meaning of reviewable national security action

Subdivision A—Simplified outline

55C Simplified outline

This Division defines the concept of a ***reviewable national security action***. The Treasurer may review an action of this kind under Part 3, as well as a significant action that is not a notifiable action or notifiable national security action, if the Treasurer considers that the action may pose a national security concern.

Subdivision B—Meaning of reviewable national security action

55D Meaning of reviewable national security action—entities

Meanings

(1) An action is a ***reviewable national security action*** if:
  (a) the action is taken, or proposed to be taken, by a person and the action is to acquire an interest of any percentage in an entity; and
  (b) as a result of the action or proposed action:
    (i) a foreign person acquires, or will acquire, a direct interest in the entity and that acquisition, or proposed

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acquisition, is not a significant action, notifiable action or notifiable national security action; or

(ii) a foreign person will be in a position, or more of a position, to influence or participate in the central management and control of the entity; or

(iii) a foreign person will be in a position, or more of a position, to influence, participate in or determine the policy of the entity; and

(c) the action is or was not otherwise a significant action, a notifiable action or a notifiable national security action.

Note: For the definition of ***entity***, see subsection (3).

(2) An action is also a ***reviewable national security action*** if:

(a) the action is taken, or proposed to be taken, by a person and the action is:

(i) to issue securities in an entity; or

(ii) to enter an agreement relating to the affairs of an entity and under which one or more senior officers of the entity will be under an obligation to act in accordance with the directions, instructions or wishes of a foreign person who holds a direct interest in the entity; or

(iii) to alter a constituent document of an entity as a result of which one or more senior officers of the entity will be under an obligation to act in accordance with the directions, instructions or wishes of a foreign person who holds a direct interest in the entity; and

(b) in the case to which subparagraph (a)(i) applies—as a result of the action or proposed action:

(i) a foreign person acquires, or will acquire, a direct interest in the entity and that acquisition, or proposed acquisition, is not a significant action, notifiable action or notifiable national security action; or

(ii) a foreign person will be in a position, or more of a position, to influence or participate in the central management and control of the entity; or

(iii) a foreign person will be in a position, or more of a position, to influence, participate in or determine the policy of the entity; and

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(c) the action is or was not otherwise a significant action, a notifiable action or a notifiable national security action.

Note: For the definition of ***entity***, see subsection (4).

Definitions of entity

(3) For the purposes of subsection (1), the entity must be:
  (a) for an acquisition of interests in shares:
    (i) a corporation that carries on an Australian business, whether alone or together with one or more other persons; or
    (ii) the holding entity of such a corporation; or
  (b) for any other action relating to a corporation:
    (i) an Australian corporation that carries on an Australian business, whether alone or together with one or more other persons; or
    (ii) the holding entity (other than a foreign corporation) of such a corporation; or
  (c) for an action relating to a unit trust:
    (i) an Australian unit trust; or
    (ii) a holding entity of an Australian unit trust.

(4) For the purposes of subsection (2), the entity must be:
  (a) for an acquisition of interests in shares or an issue of shares:
    (i) a corporation that is a relevant entity that carries on an Australian business, whether alone or together with one or more other persons; or
    (ii) the holding entity of such a corporation; or
  (b) for any other action relating to a corporation:
    (i) an Australian corporation that carries on an Australian business, whether alone or together with one or more other persons; or
    (ii) the holding entity (other than a foreign corporation) of such a corporation; or
  (c) for an action relating to a unit trust:
    (i) an Australian unit trust; or
    (ii) a holding entity of an Australian unit trust.

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55E Meaning of reviewable national security action—businesses

(1) An action is a ***reviewable national security action*** if:

(a) the action is taken, or proposed to be taken, by a person and the action is any of the following:

(i) to acquire an interest of any percentage in an Australian business;

(ii) to acquire an interest in the assets of an Australian business;

(iii) to enter or terminate a significant agreement with an Australian business; and

(b) as a result of the action or proposed action:

(i) a foreign person acquires, or will acquire, a direct interest in the Australian business and that acquisition, or proposed acquisition, is not a significant action, notifiable action or notifiable national security action; or

(ii) a foreign person will be in a position, or more of a position, to influence or participate in the central management and control of the Australian business; or

(iii) a foreign person will be in a position, or more of a position, to influence, participate in or determine the policy of the Australian business; and

(c) the action is or was not otherwise a significant action, a notifiable action or a notifiable national security action.

(2) An action is also a ***reviewable national security action*** if:

(a) the action is taken, or proposed to be taken, by a foreign person and the action is to start an Australian business; and

(b) the action is or was not otherwise a significant action, a notifiable action or a notifiable national security action.

55F Meaning of reviewable national security action—land

An action is a ***reviewable national security action*** if:

(a) the action is taken, or proposed to be taken, by a foreign person and the action is to acquire an interest in Australian land; and

(b) the action is or was not otherwise a significant action, a notifiable action or a notifiable national security action.

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55G Actions that are not reviewable national security actions—exemption certificates

The regulations may provide, in relation to exemption certificates in force under regulations made for the purposes of section 63, that an action of a specified kind is not a ***reviewable national security action***.

73 Section 56

Omit:

> An exemption certificate is a certificate given by the Treasurer that specifies an interest or an interest of a kind that, if acquired by a foreign person, does not give rise to a significant action or a notifiable action. The certificate may also specify conditions that are required to be complied with in order for an acquisition of the interest not to be a significant action or notifiable action.

74 Subsection 60(2)

Repeal the subsection, substitute:

(2) An exemption certificate may:

(a) in respect of a certificate taken to be given under section 57, 58 or 59—deal with the interests or kinds of interests to which the certificate relates; or

(b) in respect of a certificate taken to be given under the regulations—deal with the interest or kinds of interests, or the action or kinds of actions, to which the certificate relates.

75 Paragraph 61(4)(b)

Repeal the paragraph, substitute:

(b) in respect of a certificate taken to be given under section 57, 58 or 59—the interests or kinds of interests to which the certificate relates; and

(ba) in respect of a certificate taken to be given under the regulations—the interest or kinds of interests, or the action or kinds of actions, to which the certificate relates; and

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76 Section 62 (heading)

Repeal the heading, substitute:

62 Variation or revocation of exemption certificates—general

77 Subsection 62(1)

Repeal the subsection, substitute:

(1) If, in giving an exemption certificate to a person, the Treasurer was satisfied that the relevant acquisition or action was not contrary to the national interest, the Treasurer may vary or revoke the certificate if the Treasurer is satisfied that the variation or revocation is not contrary to the national interest.

(1A) If, in giving an exemption certificate to a person, the Treasurer was satisfied that the relevant action was not contrary to national security, the Treasurer may vary or revoke the certificate if the Treasurer is satisfied that the variation or revocation is not contrary to national security.

78 Subsection 62(3)

Omit "Subdivision", substitute "Division".

79 After section 62

Insert:

62A Variation or revocation of exemption certificates—false or misleading information or documents

(1) The Treasurer may give a notice under subsection (2) if the Treasurer reasonably believes that before an exemption certificate was given the person to whom the certificate relates gave the Treasurer information that was or documents that were:

(a) relevant to the exemption certificate; and

(b) false or misleading in a material particular.

(2) The Treasurer may give the person a notice, in writing, that the Treasurer is considering varying or revoking the exemption certificate because the Treasurer has the reasonable belief mentioned in subsection (1).

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(3) The Treasurer may vary or revoke an exemption certificate relating to a person if:

(a) the Treasurer is satisfied that before the exemption certificate was given the person gave the Treasurer information that was or documents that were:

(i) relevant to the exemption certificate; and

(ii) false or misleading in a material particular; and

(b) the Treasurer has given the person a notice under subsection (1) in respect of the exemption certificate; and

(c) the variation or revocation is made no later than 120 days after the day on which the Treasurer gave the person that notice.

Note: Subsection 33(3) of the *Acts Interpretation Act 1901* does not apply in relation to a power under this Division to give an exemption certificate (see subsection 62(3)).

(4) To avoid doubt, for the purposes of this section, information or documents may be false or misleading in a material particular because of the omission of a matter or thing.

(5) The Treasurer must notify the person, in writing, of the variation or revocation before the end of 10 days after the revocation is made.

(6) This section does not limit the circumstances in which the Treasurer may vary or revoke an exemption certificate.

(7) This section applies to an exemption certificate that is taken to be given under section 61.

62B Effect of revocation or variation of exemption certificate

(1) This section applies if:

(a) an exemption certificate relates to an action; and

(b) either:

(i) the exemption certificate is revoked under section 62 or 62A; or

(ii) the exemption certificate is varied under section 62 or 62A, and as a result of the variation the exemption certificate no longer relates to the action.

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(2) Despite sections 45 and 49, subsection 55B(3) and section 55G, the operation of those sections and subsections in relation to the exemption certificate do no prevent the action, from the time mentioned in subsection (3), from being any of the following:
  (a) a significant action;
  (b) a notifiable action;
  (c) a notifiable national security action;
  (d) a reviewable national security action.

(3) The time is:
  (a) if the revocation or variation specifies a time when it comes into effect—that time; or
  (b) otherwise—the time when the revocation or variation is made.

(4) Subsection (5) applies if:
  (a) at the time the action was taken:
    (i) it was not a core Part 3 action; or
    (ii) it was not contrary to the national interest or to national security; and
  (b) as a result of the operation of subsection (2), the action becomes a core Part 3 action at the time mentioned in subsection (3).

(5) To avoid doubt, the Treasurer may make an order under section 69 (disposal orders) in relation to the action despite the fact that, at the time the action was taken:
  (a) it was not a core Part 3 action; or
  (b) it was not contrary to the national interest or to national security.

80 Section 63 (note)

Repeal the note, substitute:

Note: The regulations may provide, in relation to exemption certificates in force under regulations made for the purposes of this section, that an action of a specified kind is not:
  (a) a ***significant action*** (see subsection 45(3)); or
  (b) a ***notifiable action*** (see subsection 49(2)); or
  (c) a ***notifiable national security action*** (see subsection 55B(3)); or

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(d) a ***reviewable national security action*** (see section 55G)).

81 Paragraph 65(1)(c)

Repeal the paragraph, substitute:

(c) the target is not:

(i) an Australian entity; or

(ii) an entity carrying on an Australian business; or

(iii) an entity carrying on a national security business; or

(iv) the holding entity of an entity mentioned in subparagraph (ii) or (iii);

as is required for the action to be a significant action, notifiable action, notifiable national security action or reviewable national security action; and

82 Paragraph 65(1)(d)

Omit "or (iii)", substitute ", (iii) or (iv)".

83 Section 66

Repeal the section, substitute:

66 Simplified outline of this Part

This Part deals with the powers that the Treasurer has if an action is proposed to be taken or has been taken.

The Treasurer may review actions in the circumstances set out in Division 1A. Such actions are reviewable national security actions, and significant actions that are not notifiable actions or notifiable national security actions. The Treasurer may make orders and decisions of a kind mentioned below in relation to any actions so reviewed.

If an action is proposed to be taken, the Treasurer may prohibit the action. The Treasurer may make an interim order before deciding whether to make an order prohibiting an action.

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If an action has been taken, the Treasurer may order that the action be undone (for example, by requiring an acquisition to be disposed of).

Instead of making an order, the Treasurer may give a notification (called a no objection notification) stating that the Commonwealth does not object to an action. The Treasurer may impose conditions on an action.

If the Treasurer is given a notice that an action is proposed to be taken or reviews an action under Division 1A, the Treasurer must make a decision under this Part within a certain period, although the period may be extended. A person must not take the action during this period unless the person is given a no objection notification.

The Treasurer also has last resort powers to deal with national security risks arising in relation to an action. If the Treasurer is permitted to review the action, the Treasurer may make orders to eliminate or reduce any such risks.

Division 1A—Review of reviewable national security actions

66A National security review of actions

Review allowed if action may pose a national security concern

(1) Subject to subsection (5), the Treasurer may review:
  (a) a reviewable national security action; or
  (b) a significant action that is not a notifiable action or notifiable national security action;

if the Treasurer considers that the action may pose a national security concern.

Note 1: See also section 77 (time limit on making orders and decisions) and Parts 5 (offences and civil penalties) and 6 (fees).

Note 2: In reviewing the reviewable national security action, the Treasurer may seek information: see section 133.

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When review may begin

(2) The Treasurer may only start a review of an action that has been taken within the time prescribed by the regulations.

(3) For the purposes of subsection (2), the following provisions are to be disregarded:
  (a) paragraphs 15(1)(b) and (c);
  (b) paragraphs 17(1)(c) and (2)(c);
  (c) subparagraphs 19A(1)(c)(ii) and 20(1)(c)(iii).

Notice of review

(4) If the Treasurer reviews an action mentioned in subsection (1), the Treasurer must give written notice to the person who has taken, or who proposes to take, the action, of the review.

Actions not reviewable in certain circumstances

(5) The Treasurer may not review an action under this section if, at the time a review would otherwise start, any of the following apply:
  (a) the action has been notified to the Treasurer;
  (b) a person was given a no objection notification in relation to the action;
  (c) the action or the kind of action is specified in an exemption certificate that is in force under Division 5 of Part 2 or the regulations;
  (d) the action has been taken and, at the time it was taken, the action or the kind of action was specified in an exemption certificate in force under Division 5 of Part 2 or the regulations;
  (e) an order or decision under Division 2 or 3 of this Part has been made by the Treasurer in relation to the action.

84 Division 2 of Part 3 (heading)

Repeal the heading, substitute:

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Division 2—Orders relating to actions that are, or whose result would be, contrary to national security or the national interest

85 Section 67 (heading)

Omit "**significant**".

86 Paragraph 67(1)(a)

After "significant action", insert "(other than a significant action covered by subparagraph (1A)(a)(ii))".

87 After subsection 67(1)

Insert:

(1A) The Treasurer may, by notifiable instrument, make an order under subsection (2) if the Treasurer is satisfied that:

(a) an action of any of the following kinds is proposed to be taken:

(i) a notifiable national security action that is not a significant action;

(ii) an action in respect of which the Treasurer has given a notice under subsection 66A(4);

(iii) a reviewable national security action notified to the Treasurer; and

(b) taking the action would be contrary to national security.

Note: See also section 77 (time limit on making orders and decisions) and Parts 5 (offences and civil penalties) and 6 (fees).

88 Subsection 67(2) (table heading)

Omit "**significant**".

89 Subsection 67(2) (table, heading to column headed "If the significant action is …")

Omit "**significant**".

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90 Subsection 67(2) (cell at table item 1, column headed "If the significant action is …")

Repeal the cell, substitute:

to acquire:

(a) a direct interest in an entity or Australian business; or

(b) a direct interest in an Australian entity, or an Australian business, that is an agribusiness; or

(c) an interest in securities in an entity; or

(d) an interest of any percentage in an entity or an Australian business; or

(e) an interest in assets of an Australian business; or

(f) a direct interest in a national security business; or

(g) a legal or equitable interest in an exploration tenement, and that action is to be taken by a foreign person who is not a foreign government investor

91 Subsection 67(2) (cell at table item 3, column headed "If the significant action is …")

Repeal the cell, substitute:

to enter an agreement mentioned in paragraph 40(2)(d) or subparagraph 55D(2)(a)(ii)

92 Subsection 67(2) (cell at table item 4, column headed "If the significant action is …")

Repeal the cell, substitute:

to alter a constituent document of an entity as mentioned in paragraph 40(2)(e) or subparagraph 55D(2)(a)(iii)

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93 Subsection 67(2) (table item 5)

Repeal the item, substitute:

5	to start an Australian business, and that action is to be taken by a foreign person who is not a foreign government investor	the starting of the whole or a part of the Australian business.
5A	to start a national security business	the starting of the whole or a part of the national security business.

94 Subsection 67(3) (table, heading to column "If the significant action is …")

Omit "**significant**".

95 Subsection 67(3) (cell at table item 1, column headed "If the significant action is …")

Repeal the cell, substitute:

to acquire:

(a) a direct interest in an entity; or

(b) a direct interest in an Australian entity that is an agribusiness; or

(c) an interest of any percentage in an entity; or

(d) an interest in securities in an entity

96 Subsection 67(3) (table item 2)

Repeal the item, substitute:

2	to acquire: (a) a direct interest in an Australian business that is an agribusiness; or (b) a direct interest in a national security business; or (c) an interest in assets of an Australian business; or (d) an interest of any percentage in an Australian business	directing a specified foreign person (whether alone or with specified associate or class of associates): (a) not to acquire any interests in that business or the assets of that business; or (b) to acquire any such interests only to a specified extent.

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97 Subsection 68(2) (note)

Omit "paragraph 72(2)(b)", substitute "paragraph 79M(2)(b)".

98 Paragraph 69(1)(a)

After "significant action", insert "(other than a significant action covered by subparagraph (1A)(a)(ii))".

99 Subsection 69(1) (note)

Repeal the note, substitute:

Note: See also sections 70 (limitation on making disposal orders) and 77 (time limit on making orders and decisions).

100 After subsection 69(1)

Insert:

(1A) The Treasurer may, by notifiable instrument, make an order under subsection (2) if the Treasurer is satisfied that:

(a) an action of any of the following kinds has been taken:

(i) a notifiable national security action that is not a significant action;

(ii) an action in respect of which the Treasurer has given a notice under subsection 66A(4);

(iii) a reviewable national security action that is notified to the Treasurer; and

(b) the result of the action is contrary to national security.

Note: See also sections 70 (limitation on making disposal orders) and 77 (time limit on making orders and decisions).

101 Subsection 69(2) (table, heading to column headed "If the significant action was …")

Omit "**significant**".

102 Subsection 69(2) (cell at table item 1, column headed "If the significant action was …")

Repeal the cell, substitute:

to acquire:

(a) a direct interest in an entity or Australian business; or

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	(b) a direct interest in an Australian entity, or an Australian business, that is an agribusiness; or (c) an interest in securities in an entity; or (d) an interest of any percentage in an entity or an Australian business; or (e) an interest in assets of an Australian business; or (f) a direct interest in a national security business; or (g) a legal or equitable interest in an exploration tenement, and that action is to be taken by a foreign person who is not a foreign government investor	

103 Subsection 69(2) (after table item 1)

Insert:

1A	to acquire: (a) an interest of any percentage in an entity or an Australian business; or (b) an interest in assets of an Australian business	specified persons to do within a specified period, or refrain from doing, specified acts or acts of a specified kind.

104 Subsection 69(2) (cell at table item 2, column headed "If the significant action was …")

Repeal the cell, substitute:

to enter an agreement mentioned in paragraph 40(2)(d) or subparagraph 55D(2)(a)(ii)

105 Subsection 69(2) (cell at table item 3, column headed "If the significant action was …")

Repeal the cell, substitute:

to alter a constituent document of

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	an entity as mentioned in paragraph 40(2)(e) or subparagraph 55D(2)(a)(iii)	

106 Subsection 69(2) (table item 4)

Repeal the item, substitute:

4	to start an Australian business, and that action was taken by a foreign person who is not a foreign government investor	specified persons to do within a specified period, or refrain from doing, specified acts or acts of a specified kind.
4A	to start a national security business	specified persons to do within a specified period, or refrain from doing, specified acts or acts of a specified kind.

107 Subsection 69(4)

Omit "An order", substitute "Unless subsection (4A) applies, if the Treasurer is satisfied as mentioned in subsection (1), an order".

108 After subsection 69(4)

Insert:

(4A) If the Treasurer is satisfied as mentioned in subsection (1A), an order under any of items 1A, 2 or 3 of the table in subsection (2) may be made only for the purpose of:

(a) restoring the foreign person's position to influence or participate in the central management and control of the entity as closely as possible to what is was before the action was taken; or

(b) restoring the foreign person's position to influence or participate, participate in or determine the policy of the entity as closely as possible to what is was before the action was taken.

109 Paragraphs 70(1)(a) and (b)

Repeal the paragraphs, substitute:

(a) a person is given a no objection notification specifying one or more actions; and

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(b) in the case of a no objection notification relating to actions that are proposed to be taken—the actions specified in the no objection notification were taken; and

110 At the end of section 70

Add:

(3) To avoid doubt, this section is subject to subsection 76A(7) (effect of revocation of no objection notification).

111 Sections 71 to 73

Repeal the sections.

112 Subdivision B of Division 2 of Part 3 (heading)

Repeal the heading, substitute:

Subdivision B—No objection notifications

113 Paragraph 74(1)(a)

After "significant action", insert "(other than a significant action covered by paragraph (1A)(b)".

114 Paragraph 74(1)(b)

Repeal the paragraph, substitute:

(b) all of the following apply:

(i) the Treasurer is satisfied that a significant action has been taken;

(ii) the Treasurer was not given a notice relating to the action before the action was taken;

(iii) the action is not covered by paragraph (1A)(b); or

115 After subparagraph 74(1)(c)(ii)

Insert:

(iia) the action is not covered by paragraph (1A)(b);

116 Subsection 74(1) (note)

Repeal the note, substitute:

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Note: See also sections 76 (content of no objection notification) and 77 (time limit on making orders and decisions).

117 After subsection 74(1)

Insert:

(1A) This section also applies if the following kinds of actions are proposed to be taken or have been taken:

(a) a notifiable national security action that is not a significant action;

(b) an action in respect of which the Treasurer has given a notice under subsection 66A(4);

(c) a reviewable national security action that is notified to the Treasurer.

Note: See also sections 76 (content of no objection notification) and 77 (time limit on making orders and decisions).

118 Subparagraph 74(2)(a)(ii)

Omit "and" (last occurring).

119 At the end of paragraph 74(2)(a)

Add:

(iii) for subsection (1A) and in relation to an action proposed to be taken—a condition that the Treasurer is satisfied is necessary to ensure the action, if taken, will not be contrary to national security;

(iv) for subsection (1A) and in relation to an action that has been taken—a condition that the Treasurer is satisfied is necessary to ensure the action is not contrary to national security; and

120 Subsection 74(4)

Repeal the subsection, substitute:

Variation and revocation of conditions

(4) Subject to subsection (6), the Treasurer may:

(a) in relation to an action of a kind mentioned in subsection (1)—vary a no objection notification given to a

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person in one or more ways mentioned in subsection (4A) if the Treasurer is satisfied that the variation is not contrary to the national interest; and

(b) in relation to an action of a kind mentioned in subsection (1A)—vary a no objection notification given to a person in one or more ways mentioned in subsection (4A) if the Treasurer is satisfied that the variation is not contrary to national security.

(4A) For the purposes of subsection (4), the Treasurer may vary a no objection notification in one or more of the following ways:

(a) revoking a condition;

(b) imposing a new condition;

(c) varying an existing condition;

(d) varying the information specified under section 76.

121 At the end of subsection 74(8)

Add:

Note: See also subparagraph 79A(1)(b)(ii).

122 After subsection 75(1)

Insert:

(1A) This section also applies if:

(a) the Treasurer receives a notice that a person proposes to take a notifiable national security action; or

(b) a person proposes to take:

(i) an action in respect of which the Treasurer has given a notice under subsection 66A(4); or

(ii) a reviewable national security action that the person notifies to the Treasurer.

Note: See also sections 76 (content of no objection notification) and 77 (time limit on making orders and decisions).

123 Subsection 76(1)

Repeal the subsection, substitute:

(1) A no objection notification given to a person under section 74 or 75 must:

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(a) specify the following:
(i) the one or more actions to which the notification relates;
(ii) the one or more foreign persons to which the notification relates; and
(b) include the following:
(i) a requirement that the actions to which the notification relates, if taken, must be taken before the end of a specified period after the day the notification is given;
(ii) a statement to the effect that the Treasurer may, in certain circumstances review the actions to which the notification relates under Division 3 and exercise powers under that Division.

124 Paragraph 76(4)(b)

After "contrary to", insert "national security or".

125 Subsection 76(8)

Repeal the subsection, substitute:

(8) The Treasurer may vary a no objection notification if:
(a) in the case of a no objection notification given in relation to an action of a kind mentioned in subsection 74(1) or 75(1)—the Treasurer is satisfied that the variation is not contrary to the national interest; and
(b) in the case of a no objection notification given in relation to an action of a kind mentioned in subsection 74(1A) or 75(1A)—the Treasurer is satisfied that the variation is not contrary to national security.

126 At the end of Subdivision B of Division 2 of Part 3

Add:

76A Revocation of no objection notification

(1) The Treasurer may give a notice under subsection (2) if the Treasurer reasonably believes that before a no objection notification was given to a person the person (or another person specified in the notification) gave the Treasurer information that was or documents that were:

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(a) relevant to the no objection notification; and
(b) false or misleading in a material particular.

(2) The Treasurer may give the person who was given the notification a notice, in writing, that the Treasurer is considering revoking the notification (and the relevant decision mentioned in paragraph 74(2)(a) or 75(2)(a)) because the Treasurer has the reasonable belief mentioned in subsection (1).

(3) The Treasurer may revoke a no objection notification given to a person (and the relevant decision mentioned in paragraph 74(2)(a) or 75(2)(a)) if:
(a) the Treasurer is satisfied that before the no objection notification was given the person (or another person specified in the notification) gave the Treasurer information that was or documents that were:
(i) relevant to the no objection notification; and
(ii) false or misleading in a material particular; and
(b) the Treasurer has given the person a notice under subsection (2) in respect of the no objection notification; and
(c) the revocation is made no later than 120 days after the day on which the Treasurer gave the person that notice.

(4) To avoid doubt, for the purposes of this section, information or documents may be false or misleading in a material particular because of the omission of a matter or thing.

(5) The Treasurer must notify the person, in writing, of the revocation before the end of 10 days after the revocation is made.

(6) This section does not limit the circumstances in which the Treasurer may revoke a no objection notification.

(7) If the Treasurer revokes a no objection notification under subsection (1) (and the relevant decision mentioned in paragraph 74(2)(a) or 75(2)(a)), the Treasurer may make:
(a) an order under section 67, 68 or 69; or
(b) a decision under paragraph 74(2)(a) or 75(2)(a);
as if the no objection notification had never been given (and the relevant decision had never been made).

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Note: The Treasurer cannot make an order under section 67 or 68 if the core Part 3 action in relation to which the no objection notification was given had already been taken before the revocation.

127 Division 3 of Part 3 (heading)

Repeal the heading.

128 Before section 77

Insert:

Subdivision C—Time limits on making orders and decisions

129 Section 77

Repeal the section, substitute:

77 Time limit on making orders and decisions

Time limit on making orders or decisions

(1) If a decision period starts in relation to an action (see subsection (6)), the Treasurer must not (subject to subsections (2) to (5)) make an order or decision under Division 2 relating to the action after the end of the decision period.

Note 1: For when the Treasurer may vary or revoke an order or no objection notification, see sections 74, 76, 76A and 79G.

Note 2: For further powers the Treasurer has after the expiry of the time limit in this section, see Division 3 of Part 3 (about last resort powers).

Longer time limit where interim order is made

(2) However, if:

(a) the Treasurer makes, or purports to make, an interim order in relation to the action on or before the end of the decision period; and

(b) the interim order is registered in accordance with section 79M;

the Treasurer must not make an order under section 67 or 69 or a decision under section 74 or 75 relating to the action after the end of the period specified in the interim order.

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No time limit if action taken during period

(3) Subsections (1) and (2) do not apply if:

(a) the decision period started because the Treasurer received a notice from a person stating that the action was proposed to be taken; and

(b) the person took the action before the end of:

(i) for a case to which subsection (1) applies—the decision period; or

(ii) for a case to which subsection (2) applies—the period specified in the interim order.

No time limit if order made during period

(4) Subsections (1) and (2) do not apply if:

(a) the Treasurer made an order (other than an interim order) or decision under Division 2 relating to the action on or before the end of:

(i) for a case to which subsection (1) applies—the decision period; or

(ii) for a case to which subsection (2) applies—the period specified in the interim order; and

(b) the Treasurer also registers the order in accordance with section 79M, or gives a notification in accordance with subsection 74(3) or 75(3).

Later decision periods

(5) Subsections (1) and (2) do not prevent the Treasurer from making an order or decision in relation to an action at a time after the end of a period if the time is in:

(a) another decision period that has started in relation to the action under subsection (6); or

(b) a period specified in an interim order made, or purported to be made, during another decision period that has started in relation to the action under subsection (6).

Note: Under the table in subsection (6), there may be more than one decision period for an action. For example, a decision period might start in relation to an action under item 1 of the table and then later another decision period might start under item 5 of the table.

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When a decision period starts

(6) A decision period starts in relation to an action referred to in column 1 of an item in the following table if the event referred to in column 2 of that table item occurs. To avoid doubt, there may be more than one decision period for an action.

When a decision period starts

Item	Column 1 Action	Column 2 Event
1	Any of the following: (a) a significant action; (b) a notifiable national security action; (c) a reviewable national security action	The Treasurer receives a notice from a person stating that the action is proposed to be taken
2	An action to which an exemption certificate relates	The action becomes a core Part 3 action as a result of the operation of subsection 62B(2) (which is about the effect of revocation of an exemption certificate)
3	Any of the following: (a) a significant action that is not a notifiable action or notifiable national security action; (b) a reviewable national security action	The Treasurer gives a person a notice in relation to the action under subsection 66A(4) (which is about national security review of actions)
4	An action in relation to which the Treasurer made a decision under section 74 or 75 (which is about no objection notifications)	The Treasurer notifies a person under subsection 76A(4) that the Treasurer has revoked a no objection notification given to the person in relation to the action
5	Any of the following: (a) a significant action; (b) a notifiable national security action; (c) a reviewable national security action	An order or decision the Treasurer purported to make under Division 2 in relation to the action is set aside by a court

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Note 1: If a fee is payable by a person under section 113, the notice is taken not to have been given until the fee has been paid or waived (see section 114).

Note 2: For withdrawal of notices, see section 136.

Notice given under section 133

(7) If a notice is given to a person under section 133 requiring a person to give information or produce a document, a decision period, or a period specified in an interim order, does not include any day in the period:

(a) beginning on the day the notice is given; and

(b) ending on the day the person gives the information or produces the document in accordance with the notice.

*Meaning of **decision period***

(8) A ***decision period*** is:

(a) the period of 30 days after the day the event referred to in column 2 of the applicable item of the table in subsection (6) occurs; or

(b) if, before the end of a decision period (including a decision period as extended under this paragraph), the person specified in subsection (9) requests in writing the Treasurer to extend the period—the period as so extended; or

(c) if, before the end of a decision period (including a decision period as extended under this paragraph or paragraph (b)), the Treasurer extends the period under section 77A—the period as so extended.

Specified person for extensions of the decision period

(9) The person is:

(a) in a case to which item 1, 3 or 4 of the table in subsection (6) applies—the person mentioned in column 2 of that table item; or

(b) in a case to which item 2 of the table in subsection (6) applies in relation to a variation or revocation under section 62—the person to whom the exemption certificate was given; or

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(c) in a case to which item 2 of the table in subsection (6) applies in relation to a variation or revocation under section 62A—the person to whom the notice under section 62A was given; or

(d) in a case to which item 5 of the table in subsection (6) applies—the person who took, or proposed to take, the action.

77A Treasurer may extend decision period by up to 90 days

(1) Before the end of a decision period, the Treasurer may, by notice in writing given to the person specified in subsection 77(9), extend (or further extend) the period. The Treasurer may do so more than once.

(2) The total number of days by which the Treasurer may extend a decision period by notices given under this section must not exceed 90 days.

(3) The notice:

(a) must include the reasons for the decision; and

(b) in a case to which item 1 of the table in subsection 77(6) applies—may be given to the person at an address (including an electronic address) specified in the notice relating to the action as the address for service of notices relating to the action.

(4) The Treasurer is not required to observe any requirements of the natural justice hearing rule in making a decision under subsection (1).

130 Before section 78

Insert:

Subdivision D—Anti-avoidance

131 Paragraph 79(1)(b)

After "contrary to", insert "national security or".

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132 At the end of Part 3

Add:

Division 3—Last resort powers: orders to deal with national security risks arising after an initial assessment

Subdivision A—National security review required

79A National security review required before orders may be made

Bases on which Treasurer may review actions

(1) The Treasurer may review an action if the Treasurer is satisfied that:

(a) any of the following apply:

(i) a no objection notification in relation to the action has been given and has not been revoked under section 76A;

(ii) the action has been taken and, at the time it was taken, the action or the kind of action was specified in an exemption certificate in force under Division 5 of Part 2 or the regulations;

(iii) the action has been taken and, at the time it was taken, the interest or kind of interest to which the action relates was specified in an exemption certificate in force under Division 5 of Part 2 or the regulations;

(iv) an interim order in relation to the action was made and the Treasurer did not make an order under section 67 before the end of the period specified in the interim order;

(v) an order or decision under Division 2 was not made by the Treasurer in relation to the action before the end of the decision period;

(vi) a person was given a notice imposing conditions under section 79H in relation to the action; and

(b) any of the following apply:

(i) the person notified the action to the Treasurer and made a statement, whether orally or in that notification, that

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was false or misleading in a material particular, or that omitted a matter or thing without which the statement was misleading in a material particular;

(ii) the business, structure or organisation of the person has, or the person's activities have, materially changed since the time paragraph (a) was satisfied;

(iii) the circumstances or market in which the action was, or is proposed to be, taken have materially changed since the time paragraph (a) was satisfied.

Treasurer to decide whether a national security risk exists

(2) When reviewing an action under this section, the Treasurer must decide whether a national security risk relating to the action exists. In doing so, the Treasurer must obtain, and have regard to, advice from an agency in the national intelligence community about national security risks in relation to the action.

Note: A person may apply to the Administrative Appeals Tribunal for review of a decision that a national security risk relating to the action exists: see section 130A.

Treasurer may give notice of review

(3) If the Treasurer reviews an action under this section:

(a) the Treasurer must, unless it would prejudice Australia's national security interests to do so, notify the person, in writing, of the review; and

(b) if the action has not been taken—the giving of the notice prohibits, by force of this paragraph, the taking of the action until the review of the action is completed and:

(i) an order made under this Division is registered under section 79M; or

(ii) a no objection notification is varied under section 79G; or

(iii) a notice imposing conditions is given to the person under section 79H or is varied under section 79J; or

(iv) a notice is given under section 79B advising that a national security risk does not exist in relation to the action; and

(c) if the action has been taken—the Treasurer may:

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(i) in the notice—give any direction to the person in relation to the action or a related activity that the Treasurer considers necessary to address the national security risk; and

(ii) in writing and before the review is completed—give any subsequent direction to the person in relation to the action or a related activity that the Treasurer considers necessary to address the national security risk.

(4) For the purposes of paragraph (3)(b) and an exemption certificate, the giving of the notice also prohibits, by force of this subsection, an action in relation to interests or kinds of interests, or the kinds of actions, to which the certificate relates until the review of the action is completed and an event mentioned in any of subparagraphs (3)(b)(i) to (iv) has occurred.

(5) For the purposes of paragraph (3)(c), the Treasurer may not give a direction that would require the person to take action of a kind mentioned in section 79E.

79B When an action creates a national security risk

(1) If the Treasurer reviews an action, as allowed by section 79A, the Treasurer must:

(a) give written notice to the person who proposes to take, or took, the action of the review; and

(b) either:

(i) if the Treasurer decides that a national security risk does not exist in relation to the action—include a statement to that effect in the notice; or

(ii) if the Treasurer decides that a national security risk exists in relation to the action—include the Treasurer's reasons for deciding that the risk exists in the notice.

(2) The Treasurer may redact from the written notice to the person who proposes to take, or took, the action:

(a) any reasons that would disclose the national security risk or result in prejudice to Australia's national security interests; or

(b) any information relied on in carrying out the review of the action on grounds of national security.

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(3) To avoid doubt, a written notice to the person who proposes to take, or took, the action may be validly given under subsection (1) even if all the contents of the notice are redacted.

Subdivision B—Orders

79C Considerations required by Treasurer before any order given

If the Treasurer proposes to give an order to a person relating to an action under this Subdivision:

(a) the Treasurer must be satisfied that the action has been reviewed under Subdivision A; and

(b) the Treasurer must be reasonably satisfied that:

(i) in a case in which subparagraph 79A(1)(b)(i) applies—the false or misleading statement or the omission directly relates to the national security risk; or

(ii) in a case in which subparagraph 79A(1)(b)(ii) applies—the national security risk posed by the material change could not have been reasonably foreseen, or could have been reasonably foreseen but was only a remote possibility, at the time paragraph 79A(1)(a) was satisfied; or

(iii) in a case in which subparagraph 79A(1)(b)(iii) applies—the material change alters the nature of the national security risk posed at the time paragraph 79A(1)(a) was satisfied; and

(c) the Treasurer must also be satisfied that:

(i) reasonable steps have been taken to negotiate in good faith with the person to achieve an outcome of eliminating or reducing the national security risk relating to the action that the Treasurer has decided exists so as to avoid an order being given; and

(ii) requiring the person to comply with an order is reasonably necessary for purposes relating to eliminating or reducing the national security risk; and

(iii) the use of existing regulatory systems of the Commonwealth, a State or a Territory would not adequately eliminate or reduce the national security risk.

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79D Order prohibiting proposed actions

(1) The Treasurer may, by notifiable instrument, make an order under subsection (2) if the Treasurer is satisfied that:

(a) an action is proposed to be taken; and

(b) taking the action would be contrary to national security.

Note: See also Part 5 (offences and civil penalties).

(2) The Treasurer may make an order in accordance with the following table.

Powers of Treasurer to prohibit proposed actions

Item	If the action is …	the Treasurer may make an order prohibiting …
1	to acquire: (a) a direct interest in an entity or Australian business; or (b) a direct interest in an Australian entity, or Australian business, that is an agribusiness; or (c) an interest in securities in an entity; or (d) an interest of any percentage in an entity or an Australian business; or (e) an interest in assets of an Australian business; or (f) a direct interest in a national security business; or (g) a legal or equitable interest in an exploration tenement, and that action is to be taken by a foreign person who is not a foreign government investor	the whole or a part of the proposed acquisition.
2	to issue securities in an entity	the whole or a part of the proposed issue of the securities.
3	to enter an agreement mentioned in paragraph 40(2)(d) or subparagraph 55D(2)(a)(ii)	entering the proposed agreement.

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Powers of Treasurer to prohibit proposed actions		
Item	**If the action is …**	**the Treasurer may make an order prohibiting …**
4	to alter a constituent document of an entity as mentioned in paragraph 40(2)(e) or subparagraph 55D(2)(a)(iii)	the proposed alteration.
5	to start an Australian business, and that action is to be taken by a foreign person who is not a foreign government investor	the starting of the whole or a part of the Australian business.
6	to start a national security business	the starting of the whole or a part of the national security business.
7	to enter a significant agreement with an Australian business	entering the proposed agreement.
8	to terminate a significant agreement with an Australian business	the termination of the existing agreement.
9	to acquire an interest in Australian land	the proposed acquisition.
10	to take any significant action prescribed by regulations made for the purposes of section 44	any thing prescribed by regulations made for the purposes of this item.

(3) If the Treasurer makes an order under subsection (2), the Treasurer may, by notifiable instrument, also make an order in accordance with the following table.

Additional orders		
Item	**If the action is …**	**the Treasurer may also make an order …**
1	to acquire: (a) a direct interest in an entity; or (b) a direct interest in an Australian entity that is an agribusiness; or (c) an interest of any percentage in an entity; or (d) an interest in securities in an entity	directing a specified foreign person (whether alone or with specified associate or class of associates) not to: (a) increase the proportion of the total voting power, or the total potential voting power, in the entity that the person is in a position to control (or increase

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Additional orders		
Item	**If the action is …**	**the Treasurer may also make an order …**
		that proportion beyond a specified proportion); or (b) increase the proportion of interests in issued securities in the entity that the person holds (or increase that proportion beyond a specified proportion).
2	to acquire: (a) a direct interest in an Australian business that is an agribusiness; or (b) a direct interest in a national security business; or (c) an interest in assets of an Australian business; or (d) an interest of any percentage in an Australian business	directing a specified foreign person (whether alone or with specified associate or class of associates): (a) not to acquire any interests in that business or the assets of that business; or (b) to acquire any such interests only to a specified extent.
3	to acquire an interest in Australian land	directing a specified foreign person (whether alone or with specified associate or class of associates): (a) not to acquire any interests in the land or other thing concerned; or (b) to acquire any such interests only to a specified extent.

Automatic revocation of no objection notification or notice imposing conditions

(4) If the Treasurer makes an order under subsection (2), any no objection notification or notice imposing conditions given in relation to the action is revoked by force of this subsection on the day that the order commences.

Note: For when an order commences, see section 79M.

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79E Disposal orders

(1) The Treasurer may, by notifiable instrument, make an order under subsection (2) if the Treasurer is satisfied that:

(a) an action has been taken; and

(b) the result of the action is contrary to national security.

Note: See also Part 5 (offences and civil penalties).

(2) The Treasurer may make an order in accordance with the following table.

Powers of Treasurer to require disposal of interests

Item	If the action was …	the Treasurer may make an order directing …
1	to acquire: (a) a direct interest in an entity; or (b) a direct interest in an Australian entity, or Australian business, that is an agribusiness; or (c) an interest in securities in an entity; or (d) a direct interest in a national security business; or (e) a legal or equitable interest in an exploration tenement, and that action is to be taken by a foreign person who is not a foreign government investor	the person who acquired the interest to dispose of the interest within a specified period to one or more persons who are not associates of the person.
2	to acquire: (a) an interest of any percentage in an entity or an Australian business; or (b) an interest in assets of an Australian business	specified persons to do within a specified period, or refrain from doing, specified acts or acts of a specified kind.
3	to enter an agreement mentioned in paragraph 40(2)(d) or subparagraph 55D(2)(a)(ii)	specified persons to do within a specified period, or refrain from doing, specified acts or acts of a specified kind.
4	to alter a constituent document of	specified persons to do within a

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Powers of Treasurer to require disposal of interests		
Item	**If the action was …**	**the Treasurer may make an order directing …**
	an entity as mentioned in paragraph 40(2)(e) or subparagraph 55D(2)(a)(iii)	specified period, or refrain from doing, specified acts or acts of a specified kind.
5	to start: (a) an Australian business, and that action was taken by a foreign person who is not a foreign government investor; or (b) a national security business	the person who started the business to dispose of the business within a specified period to one or more persons who are not associates of the person.
6	to enter or terminate a significant agreement with an Australian business	specified persons to do within a specified period, or refrain from doing, specified acts or acts of a specified kind.
7	to acquire an interest in Australian land	the person who acquired the interest to dispose of that interest within a specified period to one or more persons who are not associates of the person.
8	to take any significant action prescribed by regulations made for the purposes of section 44	a specified person to do a thing prescribed by regulations made for the purposes of this item.

Orders made under table item 7

(3) Without limiting item 7 of the table in subsection (2):

(a) a foreign person is taken to have acquired an interest in Australian land if the person becomes (with or without the knowledge of the person) a beneficiary in a trust that consists of or includes the interest; and

(b) if the trust is a discretionary trust—a reference to the disposal of the interest of the foreign person is a reference to the disposal of any assignable benefits in relation to that trust that may ultimately vest in that foreign person.

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Orders made under table items 2, 3, 4 or 6

(4) Before the end of a period specified in an order made under any of items 2, 3, 4 or 6 of the table in subsection (2) (or that period as extended under a previous application of this subsection), the Treasurer may, in writing, extend the period. The order has effect as if the period as extended had been specified in the order.

Automatic revocation of no objection notification or notice imposing conditions

(5) If the Treasurer makes an order under subsection (2), any no objection notification or notice imposing conditions given in relation to the action is revoked by force of this subsection on the day that the order commences.

Note: For when an order commences, see section 79M.

Subdivision C—Other powers of Treasurer

79F Considerations required by Treasurer before any power exercised

If the Treasurer proposes to exercise powers under this Subdivision in relation to an action taken, or proposed to be taken, by a person:

(a) the Treasurer must be satisfied that the action has been reviewed under Subdivision A; and

(b) the Treasurer must be reasonably satisfied that:

(i) in a case in which subparagraph 79A(1)(b)(i) applies—the false or misleading statement or the omission directly relates to the national security risk; or

(ii) in a case in which subparagraph 79A(1)(b)(ii) applies—the national security risk posed by the material change could not have been reasonably foreseen, or could have been reasonably foreseen but was only a remote possibility, at the time paragraph 79A(1)(a) was satisfied; or

(iii) in a case in which subparagraph 79A(1)(b)(iii) applies—the material change alters the nature of the national security risk posed at the time paragraph 79A(1)(a) was satisfied; and

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(c) the Treasurer must also be satisfied that:

(i) reasonable steps have been taken to negotiate in good faith with the person to achieve an outcome of eliminating or reducing the national security risk relating to the action that the Treasurer has decided exists so as to avoid an order being given; and

(ii) requiring the person to comply with an order is reasonably necessary for purposes relating to eliminating or reducing the national security risk; and

(iii) the use of existing regulatory systems of the Commonwealth, a State or a Territory would not adequately eliminate or reduce the national security risk.

79G Varying or revoking conditions of no objection notification

If a person was given a no objection notification in relation to an action, the Treasurer may decide to vary the no objection notification by:

(a) revoking a condition; or

(b) imposing a new condition; or

(c) varying an existing condition; or

(d) varying the information specified under section 76;

if the Treasurer is satisfied that the variation is reasonably necessary for purposes relating to eliminating or reducing the national security risk relating to the action.

79H Notice imposing conditions

Imposition of conditions

(1) If a person was not given a no objection notification in relation to an action, the Treasurer may:

(a) decide that the Commonwealth has no objection to the action if one or more conditions were imposed that the Treasurer is satisfied would be reasonably necessary for purposes relating to eliminating or reducing the national security risk relating to the action; and

(b) notify the person, in writing (the ***notice imposing conditions***), of the conditions.

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(2) The notice imposing conditions:
  (a) must be given before the end of 10 days after the decision is made; and
  (b) if a notice relating to the action was given—may be given to the person at an address (including an electronic address) specified in that notice as the address for service of notices relating to the action.

Content of notice

(3) A notice imposing conditions must:
  (a) specify the following:
    (i) the one or more actions to which the notice relates;
    (ii) the one or more foreign persons to which the notice relates; and
  (b) include the following:
    (i) a requirement that the actions to which the notice relates, if taken, must be taken before the end of a specified period after the day the notice is given;
    (ii) a statement to the effect that the Treasurer may, in certain circumstances, review the actions to which the notification relates under Division 3 and exercise powers under that Division.

(4) The notice imposing conditions may specify a foreign person by specifying:
  (a) a foreign person that:
    (i) is not yet incorporated; or
    (ii) is a trustee of a trust that is not yet established; and
  (b) the way in which the foreign person is to be incorporated or the trust is to be established.

(5) A foreign person is taken not to be specified in a notice imposing conditions if:
  (a) the notice specified the foreign person under subsection (4) before the foreign person was incorporated or the trust was established; and
  (b) the foreign person is not incorporated or the trust is not established in the way specified in the notice.

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(6) The period mentioned in paragraph (3)(b) is:
(a) the period prescribed by the regulations; or
(b) if the Treasurer is satisfied that a longer period is not contrary to national security or the national interest—that longer period.

79J Variation of notice imposing conditions

If a person was given a notice imposing conditions in relation to an action, the Treasurer may decide to vary the notice imposing conditions by:
(a) revoking a condition; or
(b) imposing a new condition; or
(c) varying an existing condition; or
(d) varying the information specified under section 79H;
if the Treasurer is satisfied that the variation is reasonably necessary for purposes relating to eliminating or reducing the national security risk relating to the action.

Note: See also sections 79P (variation with consent or without disadvantage) and 79Q (variation on application).

Subdivision D—Miscellaneous

79K Exercise of powers under this Division

In exercising a power under this Division, the Treasurer:
(a) may have regard to any matter; and
(b) is not required to have regard to a particular matter, unless otherwise required by this Division.

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Division 4—Administrative provisions

Subdivision A—Orders

79L Variation and revocation of orders

Variations or revocations not contrary to the national interest

(1) The Treasurer may vary or revoke an order of a kind mentioned in subsection (2) at any time if:
  (a) the Treasurer is satisfied that the variation or revocation is not contrary to the national interest; and
  (b) for a variation:
    (i) the person consents to the variation; or
    (ii) the Treasurer is satisfied that the variation does not disadvantage the person.

(2) Subsection (1) applies in relation to the following kinds of orders:
  (a) an order made under subsection 67(2) because the Treasurer was satisfied as mentioned in subsection 67(1);
  (b) an order made under section 68 because the Treasurer was considering making an order mentioned in paragraph (a);
  (c) an order made under subsection 69(2) because the Treasurer was satisfied as mentioned in subsection 69(1).

Variations or revocations not contrary to the national security

(3) The Treasurer may vary or revoke an order:
  (a) made under subsection 67(2) because the Treasurer was satisfied as mentioned in subsection 67(1A); or
  (b) made under section 68 because the Treasurer was considering making an order mentioned in paragraph (a); or
  (c) made under subsection 69(2) because the Treasurer was satisfied as mentioned in subsection 69(1A); or
  (d) made under Division 3;

at any time if the Treasurer is satisfied that the variation or revocation is not contrary to national security.

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Subsection 33(3) of the Acts Interpretation Act not to apply

(4) Subsection 33(3) of the *Acts Interpretation Act 1901* does not apply in relation to a power under this Part to make an order.

79M Registration and commencement of orders

Registration of orders

(1) An order made by the Treasurer under this Part must be:
  (a) in writing; and
  (b) registered on the Federal Register of Legislation within 10 days after it is made.

When an order commences

(2) An order under this Part commences:
  (a) for an order under subsection 67(3) or 79D(3) (additional orders) or section 69 or 79E (disposal orders)—on the day specified in the order that is at least 30 days after the order is registered; and
  (b) for any other order—on the day the order is registered.

79N Actions of more than one kind

If a single action is covered by more than one of the following (because an action is an action of more than one kind):
  (a) the definition of ***notifiable national security action***;
  (b) paragraph 40(2)(a), (b), (c), (d) or (e);
  (c) paragraph 41(2)(a), (b) or (c);
  (d) paragraph 43(a);
  (e) a provision of regulations made for the purposes of section 44;
  (f) an action in respect of which the Treasurer has given a notice under subsection 66A(4);

the Treasurer may make any of the orders under this Part that the Treasurer could make in relation to the single action.

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Subdivision B—Variation of notices imposing conditions

79P Variation with consent or without disadvantage

(1) The Treasurer may, subject to subsection (3), vary a notice imposing conditions by:
  (a) revoking a condition; or
  (b) imposing a new condition; or
  (c) varying an existing condition; or
  (d) varying the information specified under section 79H;
if the Treasurer is satisfied that the variation is not contrary to national security.

(2) The variation may be made on the Treasurer's own initiative.

(3) The Treasurer may vary a notice imposing conditions given to a person by imposing a new condition or varying an existing condition only if:
  (a) the person consents to the new condition or the variation; or
  (b) the Treasurer is satisfied that the new condition or variation does not disadvantage the person.

79Q Variation on application

(1) A person given a notice imposing conditions may apply to the Treasurer for a variation of the notice (including after the action specified in the notice is taken).

Note: See also Part 6 (fees) and section 135 (manner of application).

(2) An application for an extension of a period specified in a notice imposing conditions must be made 2 months before the end of the period.

(3) The Treasurer may vary a notice imposing conditions if the Treasurer is satisfied that the variation is not contrary to national security.

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Division 5—Treasurer directions

Subdivision A—Directions to persons

79R Treasurer may give direction to person

(1) The Treasurer may make a direction under subsection (3) if any of the following conditions are met:
  (a) the Treasurer has reason to believe that a person has engaged, or is engaging, in conduct that constitutes a contravention (the ***relevant contravention***) of a provision of this Act;
  (b) the Treasurer has reason to believe that a person will engage in conduct that would constitute a contravention (also the ***relevant contravention***) of a provision of this Act.

(2) If the conditions in either or both of paragraphs (1)(a) and (b) are met in respect of 2 or more relevant contraventions, the direction may relate to any or all of those relevant contraventions.

(3) The Treasurer may direct the person in writing to engage in conduct specified in the direction in order to:
  (a) if paragraph (1)(a) applies—address the relevant contravention; and
  (b) if paragraph (1)(b) applies—prevent the relevant contravention; and
  (c) in any case—prevent a similar or related contravention.

(4) Without limiting the scope of subsection (3), the direction may direct the person to engage in specified conduct:
  (a) during a specified period; or
  (b) by or until a specified time; or
  (c) until a specified condition is met.

(5) Without limiting the scope of subsections (3) and (4), the conduct to be engaged in as specified in the direction may include any of the following:
  (a) to comply with one or more specified provisions of this Act;
  (b) if the relevant contravention relates to one or more conditions in a no objection notification or exemption certificate—to

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comply with those conditions in the no objection notification or exemption certificate;

(c) to engage in specified conduct that is necessary to address or prevent consequences arising from the relevant contravention that the Treasurer is satisfied are contrary to the national interest;

(d) to take specified steps that are ancillary to conduct mentioned in the previous paragraphs of this subsection;

(e) any other conduct of a kind specified in the regulations.

(6) Subsection (7) applies if a consequence or possible consequence arising from the relevant contravention is that the composition of the group of senior officers of a corporation is a composition that the Treasurer is satisfied is contrary to the national interest.

(7) Without limiting the scope of subsections (3) and (4) and paragraph (5)(c), the conduct to be engaged in as specified in the direction may include any of the following, to the extent necessary to address or prevent the consequence or possible consequence mentioned in subsection (6):

(a) to ensure that specified persons cease to be senior officers of the corporation;

(b) to ensure that specified persons do not become senior officers of the corporation;

(c) to ensure that specified kinds of person (such as persons who are not Australian citizens, or who are foreign persons) cease to be senior officers of the corporation;

(d) to ensure that specified kinds of person (such as persons who are not Australian citizens, or who are foreign persons) do not become senior officers of the corporation;

(e) to ensure that a specified proportion of the senior officers of the corporation are not specified kinds of person (such as persons who are not Australian citizens, or who are foreign persons).

(8) Despite section 46AA of the *Acts Interpretation Act 1901*, a direction under subsection (3) may provide for a matter by applying, adopting or incorporating, with or without modification, any matter contained in an instrument or other writing as in force or existing from time to time.

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(9) A direction under subsection (3) is not a legislative instrument.

79S Publication of directions

(1) If the Treasurer makes a direction under subsection 79R(3), the Treasurer must ensure that the direction is published on a website maintained by the Department as soon as practicable after it is made.

(2) If a direction under subsection 79R(3) has not yet been published on a website maintained by the Department, the Treasurer may decide, in writing, that publishing the direction on such a website would be contrary to the national interest.

(3) If the Treasurer makes a decision under subsection (2) in relation to a direction, subsection (1) does not apply to the direction.

(4) The direction is not invalid merely because of a failure to comply with subsection (1).

79T When direction takes effect

A direction under subsection 79R(3) takes effect at the later of the following times:

(a) the time when it is given to the person in respect of which it was made;

(b) the time specified in the direction as the time when it takes effect.

79U Varying and revoking directions

(1) The Treasurer may, by notice in writing to the person in respect of which a direction under subsection 79R(3) was made, vary the direction if, at the time of the variation, the Treasurer considers that the variation is appropriate and is not contrary to the national interest.

(2) The Treasurer may, by notice in writing to the person in respect of which a direction under subsection 79R(3) was made, revoke the direction if, at the time of the revocation, the Treasurer considers that:

(a) the direction is no longer appropriate; and
(b) revoking the direction is not contrary to the national interest.

(3) If the Treasurer makes a variation or revocation under this section, the Treasurer must ensure that the variation or revocation is published on a website maintained by the Department as soon as practicable after it is made.

(4) If a variation or revocation under this section has not yet been published on a website maintained by the Department, the Treasurer may decide, in writing, that publishing the variation or revocation on such a website would be contrary to the national interest.

(5) If the Treasurer makes a decision under subsection (4) in relation to a direction, subsection (3) does not apply to the variation or revocation.

(6) The variation or revocation is not invalid merely because of a failure to comply with subsection (3).

(7) A variation or revocation under this section of a direction takes effect at the later of the following times:
(a) the time when it is given to the person in respect of which the direction was made;
(b) the time specified in the variation or revocation as the time when it takes effect.

Subdivision B—Interim directions to persons

79V Treasurer may give interim direction to person

(1) The Treasurer may make an interim direction under subsection (3) if:
(a) any of the following conditions are met:
(i) the Treasurer has reason to believe that a person has engaged, or is engaging, in conduct that constitutes a contravention (the ***relevant contravention***) of a provision of this Act;
(ii) the Treasurer has reason to believe that a person will engage in conduct that would constitute a contravention

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(also the ***relevant contravention***) of a provision of this Act; and

(b) the Treasurer considers that a delay in making the interim direction would be contrary to the national interest.

(2) If the conditions in either or both of subparagraphs (1)(a)(i) and (ii) are met in respect of 2 or more relevant contraventions, the interim direction may relate to any or all of those relevant contraventions.

(3) The Treasurer may direct the person in writing to engage in conduct specified in the interim direction in order to:

(a) if subparagraph (1)(a)(i) applies—address the relevant contravention; and

(b) if subparagraph (1)(a)(ii) applies—prevent the relevant contravention; and

(c) in any case—prevent a similar or related contravention.

(4) Without limiting the scope of subsection (3), the interim direction may direct the person to engage in specified conduct:

(a) during a specified period; or

(b) by or until a specified time; or

(c) until a specified condition is met.

(5) Without limiting the scope of subsections (3) and (4), the conduct to be engaged in as specified in the interim direction may include any of the following:

(a) to comply with one or more specified provisions of this Act;

(b) if the relevant contravention relates to one or more conditions in a no objection notification or exemption certificate—to comply with those conditions in the no objection notification or exemption certificate;

(c) to engage in specified conduct that is necessary to address or prevent consequences arising from the relevant contravention that the Treasurer is satisfied are contrary to the national interest;

(d) to take specified steps that are ancillary to conduct mentioned in the previous paragraphs of this subsection;

(e) any other conduct of a kind specified in the regulations.

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(6) Despite section 46AA of the *Acts Interpretation Act 1901*, an interim direction under subsection (3) may provide for a matter by applying, adopting or incorporating, with or without modification, any matter contained in an instrument or other writing as in force or existing from time to time.

(7) An interim direction under subsection (3) is not a legislative instrument.

79W When interim direction takes effect

An interim direction under subsection 79V(3) takes effect at the later of the following times:

(a) the time when it is given to the person in respect of which it was made;

(b) the time specified in the interim direction as the time when it takes effect.

79X Expiry of interim direction

(1) Subsection (2) applies if:

(a) the Treasurer makes an interim direction under subsection 79V(3) in respect of a person because a condition in subparagraph 79V(1)(a)(i) or (ii) was met in relation to a relevant contravention of a provision; and

(b) after the day on which the interim direction takes effect, the Treasurer makes a direction under subsection 79R(3) in respect of the person because a condition in paragraph 79R(1)(a) or (b) was met in relation to the relevant contravention.

(2) The interim direction ceases to have effect at the time the direction takes effect.

(3) To avoid doubt, this section does not prevent the Treasurer from revoking the interim direction under section 79Y.

79Y Varying and revoking interim directions

(1) The Treasurer may, by notice in writing to the person in respect of which an interim direction under subsection 79V(3) was made,

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vary the interim direction if, at the time of the variation, the Treasurer considers that the variation is appropriate and is not contrary to the national interest.

(2) The Treasurer may, by notice in writing to the person in respect of which an interim direction under subsection 79V(3) was made, revoke the interim direction if, at the time of the revocation, the Treasurer considers that:
  (a) the interim direction is no longer appropriate; and
  (b) revoking the interim direction is not contrary to the national interest.

(3) A variation or revocation under this section of an interim direction takes effect at the later of the following times:
  (a) the time when it is given to the person in respect of which the interim direction was made;
  (b) the time specified in the variation or revocation as the time when it takes effect.

133 Part 4 (heading)

Repeal the heading, substitute:

Part 4—Notices required for notifiable actions and notifiable national security actions, and may be given of other actions

134 Section 80

Repeal the section, substitute:

80 Simplified outline of this Part

A foreign person must give the Treasurer a notice before taking a notifiable action or notifiable national security action or, if section 18A (increasing percentage of interests without acquiring additional interests in securities) applies, before the end of 30 days after the action is taken.

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A foreign person must not take an action during a certain period (unless the person is given a no objection notification or section 18A applies) if:

(a) the foreign person chooses to notify the Treasurer of the action despite not being required to do so; or

(b) the foreign person is given a notice by the Treasurer under subsection 66A(4) (actions that may pose a national security concern).

Generally, the period is 40 days from receiving the notice, or up to 90 days from the registration of an interim order. The person may be prevented from taking the action by an order under Part 3.

135 Section 81 (at the end of the heading)

Add "**and notifiable national security actions**".

136 Subsection 81(1)

After "notifiable action", insert "or notifiable national security action".

137 Subsection 81(1)

Before "must", insert "(other than because of the operation of section 18A (increasing percentage of interests without acquiring additional interests in securities))".

138 After subsection 81(1)

Insert:

(1A) A foreign person who takes a notifiable action or notifiable national security action because of the operation of section 18A (increasing percentage of interests without acquiring additional interests in securities) must give a notice to the Treasurer before the end of 30 days after the action is taken.

Note: The notice may be given before or after the action is taken.

139 Subsection 81(2)

After "notifiable action", insert "or notifiable national security action".

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140 Section 82 (heading)

Omit "**significant**".

141 Subsection 82(1)

Repeal the subsection, substitute:

(1) This section applies (subject to subsection (3)) in relation to:

(a) a foreign person who gives a notice to the Treasurer stating that any of the following actions are proposed to be taken:

(i) a significant action (including a significant action that is a notifiable action);

(ii) a notifiable national security action;

(iii) a reviewable national security action; or

(b) a foreign person who proposes to take an action in respect of which the Treasurer has given a notice under subsection 66A(4).

Note: A notice might be given under section 81 or because a foreign person chooses to give a notice despite not being required to do so.

142 At the end of section 82

Add:

(3) This section does not apply if the proposed action arises because of the operation of section 18A (increasing percentage of interests without acquiring additional interests in securities).

143 Section 83

Omit:

> A person may commit an offence or contravene a civil penalty provision if the person:
>
> (a) fails to give a notice under section 81 before taking a notifiable action; or
>
> (b) takes a significant action before the end of the period in section 82; or
>
> (c) contravenes an order under Part 3; or

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(d) contravenes a condition in a no objection notification or an exemption certificate.

substitute:

To ensure that persons comply with their obligations under this Act, this Part provides for a range of enforcement options, including criminal offences and civil penalties.

144 Section 84 (after the heading)

Insert:

Failing to give notice—general case

145 Section 84

Before "A person", insert "(1)".

146 Paragraph 84(b)

After "action", insert "(other than because of the operation of section 18A (increasing percentage of interests without acquiring additional interests in securities))".

147 Paragraph 84(c)

After "notifiable action", insert "or notifiable national security action".

148 Paragraph 84(d)

Omit "section 81", substitute "subsection 81(1)".

149 At the end of section 84 (after the penalty)

Add:

Failing to give notice—increasing percentage of interests without acquiring additional interests in securities

(2) A person commits an offence if:

(a) the person is a foreign person; and

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(b) the person takes an action because of the operation of section 18A (increasing percentage of interests without acquiring additional interests in securities); and

(c) the action is a notifiable action or a notifiable national security action; and

(d) the person does not give a notice as required by subsection 81(1A) before the end of 30 days after the action is taken.

Note: The notice may be given before or after the action is taken.

Penalty: Imprisonment for 10 years, or 15,000 penalty units (or 150,000 penalty units if the person is a corporation), or both.

150 Section 85 (heading)

Omit "**significant**".

151 Section 85

Before "A person", insert "(1)".

152 Paragraph 85(b)

Repeal the paragraph, substitute:

(b) the person gives a notice to the Treasurer stating that a significant action (including a significant action that is a notifiable action), a notifiable national security action or a reviewable national security action is proposed to be taken; and

153 Paragraph 85(c)

After "action", insert "(other than because of the operation of section 18A (increasing percentage of interests without acquiring additional interests in securities))".

154 At the end of section 85 (after the penalty)

Add:

(2) A person commits an offence if:

(a) the person is a foreign person; and

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(b) the Treasurer gives the person a notice under subsection 66A(4) in relation to an action; and

(c) at the time the Treasurer gave the notice to the person, the action had not been taken; and

(d) the person takes the action (other than because of the operation of section 18A (increasing percentage of interests without acquiring additional interests in securities)); and

(e) the action is taken before the day mentioned in section 82; and

(f) if a change in control is required for the action to be a significant action—there is a change in control as a result of the action.

Note 1: If a person takes an action by entering an agreement, the action is not taken until the agreement is binding on the person (see subsections 15(4) and (5)).

Note 2: A notice might be given under section 81 or because a foreign person chooses to give a notice despite not being required to do so.

Penalty: Imprisonment for 10 years, or 15,000 penalty units, or both.

155 After section 85

Insert:

85A Taking action while prohibited by this Act

A person commits an offence if:

(a) the person takes an action; and

(b) the action is taken when prohibited by paragraph 79A(3)(b) or subsection 79A(4).

Penalty: Imprisonment for 10 years, or 15,000 penalty units, or both.

156 Paragraph 87(a)

Repeal the paragraph, substitute:

(a) any of the following applies:

(i) the person is given a no objection notification under section 74;

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(ii) the person is given a notice imposing conditions;
(iii) the person is specified in an exemption certificate; and

157 Paragraph 87(b)

Omit "notification", substitute "notification, notice".

158 At the end of Division 2 of Part 5

Add:

88A Contravening directions and interim directions

A person commits an offence if:

(a) the person has been directed by the Treasurer under subsection 79R(3) or 79V(3); and
(b) the person engages in conduct; and
(c) the person does so in contravention of the direction.

Penalty: Imprisonment for 10 years, or 15,000 penalty units (or 150,000 penalty units if the person is a corporation), or both.

159 Subdivision A of Division 3 of Part 5 (heading)

Omit "**significant**".

160 Section 90

Repeal the section, substitute:

90 Application

This Subdivision does not apply in relation to:

(a) a significant action relating to an interest in residential land; or
(b) a notifiable action or a notifiable national security action relating to an interest in residential land; or
(c) a reviewable national security action relating to an interest in residential land.

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161 Section 91 (after the heading)

Insert:

Failing to give notice—general case

162 Section 91

Before "A foreign", insert "(1)".

163 Section 91

After "notifiable action", insert "or notifiable national security action".

164 Section 91

Before "must", insert "(other than because of the operation of section 18A (increasing percentage of interests without acquiring additional interests in securities))".

165 Section 91

Omit "section 81", substitute "subsection 81(1)".

166 Section 91 (penalty)

Repeal the penalty.

167 At the end of section 91 (after the penalty)

Add:

Failing to give notice—increasing percentage of interests without acquiring additional interests in securities

(2) A foreign person who takes a notifiable action or notifiable national security action because of the operation of section 18A (increasing percentage of interests without acquiring additional interests in securities) must give a notice to the Treasurer before the end of 30 days after the action is taken.

Note: The notice may be given before or after the action is taken.

Civil penalty provisions

(3) A person who contravenes subsection (1) or (2) is liable to a civil penalty.

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(4) The maximum penalty for the contravention is the lesser of the following:
(a) 2,500,000 penalty units;
(b) the greater of the following:
(i) 5,000 penalty units (or 50,000 penalty units if the person is a corporation);
(ii) the amount worked out under section 98F for the action.

168 Section 92 (heading)

Omit "**significant**".

169 Section 92

Omit "a significant action" (first occurring), substitute "an action".

170 Section 92

Before "must", insert "(other than because of the operation of section 18A (increasing percentage of interests without acquiring additional interests in securities))".

171 Paragraph 92(a)

Repeal the paragraph, substitute:

(a) either:
(i) the person gives a notice to the Treasurer stating that the action is proposed to be taken; or
(ii) the action is an action in respect of which the Treasurer has given a notice under subsection 66A(4); and

172 After section 92

Insert:

92A Taking action while prohibited by this Act

(1) A person must not take an action when prohibited by paragraph 79A(3)(b) or subsection 79A(4).

(2) A person who contravenes subsection (1) is liable to a civil penalty.

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Penalty

(3) The maximum penalty for the contravention is the lesser of the following:
  (a) 2,500,000 penalty units;
  (b) the greater of the following:
    (i) 5,000 penalty units (or 50,000 penalty units if the person is a corporation);
    (ii) the amount worked out under section 98F for the action.

173 Subsection 94(1)

After "notifiable action", insert "or notifiable national security action".

174 Subsection 94(2)

Repeal the subsection, substitute:

(2) If:
  (a) a foreign person gives a notice to the Treasurer stating that any of the following actions are proposed to be taken:
    (i) a significant action (including a significant action that is a notifiable action) that is a residential land acquisition;
    (ii) a notifiable national security action that is a residential land acquisition;
    (iii) a reviewable national security action that is a residential land acquisition; or
  (b) both:
    (i) a foreign person proposes to take an action that is a residential land acquisition; and
    (ii) the Treasurer has given a notice under subsection 66A(4) in relation to the action;

the foreign person must not take the action before the day mentioned in section 82.

175 Subsection 95(5)

Repeal the subsection, substitute:

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General exceptions

(5) Subsections (1), (4) and (8) do not apply in relation to an interest if the interest was, or was of a kind, specified in:
  (a) an exemption certificate; or
  (b) a no objection notification; or
  (c) a notice imposing conditions.

176 After section 95

Insert:

95A Taking action while prohibited by this Act

(1) A person must not take an action relating to a residential land acquisition when prohibited by paragraph 79A(3)(b) or subsection 79A(4).

(2) A person who contravenes subsection (1) is liable to a civil penalty.

Penalty

(3) The maximum penalty for the contravention is the greatest of the following:
  (a) the amount of the capital gain that was made or would be made on the disposal of the interest in the relevant residential land;
  (b) 25% of the consideration for the residential land acquisition;
  (c) 25% of the market value of the interest in the relevant residential land.

Note 1: ***Consideration*** is defined by the regulations (see section 4).

Note 2: For how to work out the capital gain, see section 98.

177 After subsection 96(1)

Insert:

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Conditions in notice imposing conditions

(1A) A person who is given a notice imposing conditions relating to a residential land acquisition must not contravene a condition (except a condition mentioned in section 97) specified in the notice.

178 Subsection 96(3)

Omit "(1) or (2)", substitute "(1), (1A) or (2)".

179 After subsection 97(1)

Insert:

Conditions in notice imposing conditions

(1A) A person who is given a notice imposing conditions relating to a residential land acquisition must not contravene a condition specified in the notice requiring:

(a) the person to give a notice to the Treasurer when the person acquires or disposes of the interest in the relevant residential land; or

(b) the sale of a dwelling on the relevant residential land to be advertised (however described) in Australia.

Civil penalty: 250 penalty units.

180 Section 112

Omit:

(b)	giving a notice of a notifiable action; and
(c)	giving a notice relating to an action that is not a notifiable action; and
(d)	applying for a variation of a no objection notification.

substitute:

(b)	giving a notice of a notifiable action or notifiable national security action; and
(c)	giving a notice relating to a significant action that is not a notifiable action or notifiable national security action; and

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(d) giving a notice relating to a reviewable national security action; and
(e) being given a notice under subsection 66A(4); and
(f) applying for a variation of a no objection notification or notice imposing conditions.

181 Section 112

Omit:

The amounts of the fees are found in the *Foreign Acquisitions and Takeovers Fees Imposition Act 2015*.

substitute:

The amounts of the fees are found in regulations made under the *Foreign Acquisitions and Takeovers Fees Imposition Act 2015*.

182 Subsection 113(1) (table item 3)

After "notifiable action", insert "or notifiable national security action".

183 Subsection 113(1) (cell at table item 4, column 1)

Repeal the cell, substitute:

a person who gives a notice to the Treasurer that the person proposes to take either of the following:
(a) a significant action that is not a notifiable action or notifiable national security action;
(b) a reviewable national security action

184 Subsection 113(1) (after table item 4)

Insert:

4A	a person to whom a notice is given under subsection 66A(4)	before the end of 30 days after the notice is given.

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185 Subsection 113(1) (cell at table item 5, column 1)

Repeal the cell, substitute:

a person:

(a) in relation to whom an order is made under Division 2 of Part 3; or

(b) to whom a no objection notification is given;

if both of the following apply:

(c) the person did not give a notice mentioned in item 3 or 4 of this table in relation to the action specified in the order or notification;

(d) the person was not given a notice under subsection 66A(4) in relation to that action

186 Subsection 113(1) (at the end of the table)

Add:

7	a person who applies under subsection 79Q(1) for a variation of a notice imposing conditions	when the application is made.

187 Subsection 113(1) (note)

Omit "Part 2 of", substitute "regulations made under".

188 Section 114

Omit "giving a notice or making an application", substitute "an application made or a notice given by the person".

189 Section 114

Omit "or remitted".

190 Section 115A

After "found in", insert "regulations made under".

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191 Subsection 115C(1) (note)

Omit "Part 2 of", substitute "regulations made under".

192 At the end of section 115D

Add:

Person holds the interest jointly with one or more other foreign persons

(4) Subsection (1) ceases to apply to the person for the vacancy year and the dwelling on the land if:

(a) the person holds the interest in land jointly with one or more other foreign persons (whether or not the first-mentioned person also holds the interest jointly with one or more other persons who are not foreign persons); and

(b) this Division also applies in relation to that other foreign person, or those other foreign persons, for the dwelling on the land; and

(c) that other foreign person, or at least one of those other foreign persons, both:

(i) has a vacancy year for the dwelling that is the same as the first-mentioned person's vacancy year; and

(ii) complies with subsection (1) for that vacancy year and the dwelling.

193 Part 7 (heading)

Repeal the heading, substitute:

Part 7—Administrative provisions

194 Paragraph 116(a)

Omit "significant actions, notifiable actions and".

195 Section 116

After:

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> Information that is obtained for the purposes of this Act (called protected information) may be disclosed only for authorised purposes. A person who obtains, uses or discloses protected information other than as authorised by this Act may commit an offence.

insert:

> A person may apply to the Administrative Appeals Tribunal for review of a decision of the Treasurer that a national security risk exists in relation to an action. Division 4 modifies provisions of the AAT Act for this purpose.

196 Paragraph 117(1)(a)

Omit "or notifiable action", substitute ", notifiable action or notifiable national security action".

197 After paragraph 117(1)(a)

Insert:

(aa) any action taken by the person that is a reviewable national security action notified to the Treasurer to the extent that the records are relevant to an order or decision under Part 3;

198 After paragraph 117(1)(c)

Insert:

(ca) whether the person is complying with a condition in a notice imposing conditions;

199 Subparagraphs 117(1)(d)(i) and (ii)

Omit "or notifiable action", substitute ", notifiable action or notifiable national security action".

200 At the end of paragraph 117(1)(d)

Add:

; or (iii) was a reviewable national security action notified to the Treasurer; or

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(iv) was an action in respect of which the Treasurer gave a notice under subsection 66A(4).

201 Paragraph 118(a)

Omit "117(1)(a) and (b)", substitute "117(1)(a), (aa) and (b)".

202 Paragraph 118(b)

Omit "paragraph 117(1)(c)", substitute "paragraphs 117(1)(c) and (ca)".

203 Paragraph 120(2)(c)

Repeal the paragraph, substitute:

(c) the disclosure is made to:

(i) the Secretary; or

(ii) a person appointed or engaged under the *Public Service Act 1999* who is employed in the Department; or

(iii) a person appointed by the Commonwealth for the purposes of this Act;

204 Section 122

Repeal the section, substitute:

122 Authorisation of disclosures to Commonwealth Ministers and Commonwealth bodies

Authorisation

(1) A person may disclose protected information to a person covered by subsection (2) for the purposes of:

(a) administering a law covered by subsection (3); or

(b) a Minister discharging that Minister's responsibility for a matter covered by subsection (5).

Persons to whom protected information may be disclosed

(2) This subsection covers the following persons:

(a) a Minister who has responsibility for:

(i) administering a law covered by subsection (3); or

(ii) a matter covered by subsection (5);

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(b) an individual who is:
(i) employed by such a Minister under Part III or IV of the *Members of Parliament (Staff) Act 1984*; or
(ii) engaged by such a Minister as a consultant under Part II of that Act;
(c) an officer or employee of a Department of State, or of an authority or agency of the Commonwealth, administered by such a Minister.

Relevant laws

(3) This subsection covers the following laws:
(a) the *Airports Act 1996*;
(b) the *Australian Crime Commission Act 2002*;
(c) the *Australian Prudential Regulation Authority Act 1998*;
(d) the *Australian Securities and Investments Commission Act 2001*;
(e) the *Australian Security Intelligence Organisation Act 1979*;
(f) the *Australia's Foreign Relations (State and Territory Arrangements) Act 2020*;
(g) the *Banking Act 1959*;
(h) the *Competition and Consumer Act 2010*;
(i) the *Corporations Act 2001*;
(j) the *Defence Act 1903*;
(k) the *Financial Sector (Shareholdings) Act 1998*;
(l) the *Industry Research and Development Act 1986*;
(m) the *Inspector-General of Intelligence and Security Act 1986*;
(n) the *Insurance Acquisitions and Takeovers Act 1991*;
(o) the *Intelligence Services Act 2001*;
(p) the *Migration Act 1958*;
(q) the *Northern Australia Infrastructure Facility Act 2016*;
(r) the *Proceeds of Crime Act 2002*;
(s) the *Qantas Sale Act 1992*;
(t) the *Security of Critical Infrastructure Act 2018*;
(u) a taxation law (within the meaning of section 995-1 of the *Income Tax Assessment Act 1997*);
(v) the *Telstra Corporation Act 1991*;

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(w) any law determined by the Treasurer under subsection (4).

(4) The Treasurer may, by legislative instrument, determine laws for the purposes of paragraph (3)(w).

Relevant matters

(5) This subsection covers the following matters:
(a) agriculture;
(b) water;
(c) infrastructure;
(d) telecommunications;
(e) industry policy;
(f) investment promotion;
(g) taxation policy;
(h) foreign investment in Australia;
(i) defence;
(j) national security.

205 After section 123

Insert:

123A Authorisation of disclosures about decisions where Commonwealth, State or Territory Minister or body etc. provided information

A person (the ***discloser***) may disclose protected information to a person (the ***recipient***) if:

(a) the recipient is:
(i) a Minister, an officer or an employee of the Commonwealth, a State, the Australian Capital Territory or the Northern Territory; or
(ii) an officer or employee of a Commonwealth, State or Territory body; and

(b) the information relates to a decision (the ***relevant decision***) to make, or not to make, an order or decision under Part 3; and

(c) either:

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(i) the recipient; or

(ii) if subparagraph (a)(ii) applies—another officer or employee of the Commonwealth, State or Territory body mentioned in that subparagraph;

provided information for the purposes of the making of the relevant decision; and

(d) the discloser reasonably believes the disclosure of the information may assist the recipient in the performance of the recipient's functions or duties, or the exercise of the recipient's powers, as a person mentioned in subparagraph (a)(i) or (ii).

123B Authorisation of disclosures to foreign governments and separate government entities

(1) A person may disclose protected information to a foreign government or a separate government entity in relation to a foreign country (or a part of a foreign country) if:

(a) either:

(i) the person discloses the information in performing the person's functions or duties, or exercising the person's powers, under this Act; or

(ii) the person is satisfied the disclosure of the information will assist or enable the foreign government or separate government entity to perform a function or duty, or exercise a power, of the government or entity; and

(b) the Treasurer is satisfied that the information relates to a matter in relation to which a national security risk may exist for Australia or the foreign country; and

(c) the Treasurer is satisfied that the disclosure is not contrary to the national interest; and

(d) the person is satisfied that the information will be used in accordance with an agreement to which subsection (2) applies; and

(e) the foreign government or separate government entity has undertaken not to use or further disclose the information except in accordance with the agreement or otherwise as required or authorised by law.

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(2) This subsection applies to an agreement that is in force between:
  (a) the Commonwealth or a Department of State, authority or agency of the Commonwealth; and
  (b) one or more of the following:
    (i) a foreign government;
    (ii) a separate government entity.

(3) The Treasurer may, by writing, impose conditions to be complied with by a foreign government or a separate government entity in relation to protected information disclosed to it under subsection (1).

(4) An instrument under subsection (3) is not a legislative instrument.

206 Section 124

Repeal the section, substitute:

124 Authorisation of disclosures of non-identifying information

A person may disclose protected information if the information does not identify, and is not reasonably capable of being used to identify, a person.

207 At the end of Part 7

Add:

Division 4—Review of decisions

130A AAT review of decisions

(1) An application may be made to the Tribunal for review of a decision of the Treasurer under section 79A that a national security risk exists in relation to an action.

(2) The application may be made by, or on behalf of, a person who has been given a notice by the Treasurer under subsection 79B(1) that such a national security risk exists.

(3) At any time after the Tribunal has given its findings in relation to the review to the applicant, the applicant may apply for a review of

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the Tribunal's findings on the ground that the applicant has fresh evidence of material significance that was not available at the time of the previous review.

(4) If the Tribunal is satisfied that an application under subsection (3) is justified, the Tribunal may review its previous findings and:

(a) this Act; and

(b) the AAT Act;

apply in relation to such a review, and the findings of such a review, as if it were a review of a reviewable decision.

Interaction with the AAT Act

(5) Subsections (2) and (3) apply despite subsection 27(1) of the AAT Act.

130B Manner of applying for review

(1) An application to the Tribunal for a review of a reviewable decision:

(a) in respect of an application referred to in subsection 130A(1)—must be accompanied by:

(i) a copy of the written notice mentioned in subsection 79B(1) that was given to the applicant; and

(ii) a statement indicating any part of the notice with which the applicant does not agree; and

(iii) a statement setting out the grounds on which the application is made; and

(b) in respect of an application referred to in subsection 130A(3)—must set out the grounds on which the application is made.

Note: See also subsection 29(1) of the AAT Act, which contains other requirements for making an application to the Tribunal.

Interaction with the AAT Act

(2) Subsection (1) applies despite paragraph 29(1)(c) of the AAT Act.

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130C Notice of application

(1) If an application is made to the Tribunal for the review of a reviewable decision, the Tribunal must cause a copy of the application and, if applicable, a copy of the statement lodged with the application, to be given to the Treasurer.

(2) If an application is made to the Tribunal for the review of a reviewable decision and an agency in the national intelligence community provided advice to the Treasurer in relation to the decision to which the application relates, the Treasurer must cause a copy of the documents mentioned in subsection (1) to be given to the agency.

Interaction with the AAT Act

(3) This section has effect despite section 29AC of the AAT Act.

130D Treasurer to lodge certain material with Tribunal

(1) If a person has applied to the Tribunal for review of a reviewable decision, the Treasurer must, within 30 days after receiving notice of the application, lodge with the Tribunal:

(a) a copy of the notice given to the person under subsection 79B(1); and

(b) a copy of the whole of the notice (without redaction).

(2) The Tribunal must not, at any time, permit the applicant to have access to any copy or particulars of the notice (without redaction) or any matter to which the notice (without redaction) relates.

130E Security Division of the Tribunal to review applications

Despite subsection 17B(1) of the AAT Act, the powers of review in respect of applications referred to in section 130A may be exercised by the Tribunal only in the Security Division of the Tribunal.

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130F Orders for non-publication and non-disclosure

Despite subsection 35AA(1) of the AAT Act, subsection 35AA(2) applies in relation to a proceeding in which the Tribunal reviews a reviewable decision.

130G Procedure for review

Review of reviewable decision

(1) If an application for a review of a reviewable decision is made to the Tribunal, the Tribunal is to review the decision in accordance with this section.

Parties

(2) Despite section 30 of the AAT Act, the parties to the proceeding are the Treasurer and the applicant but the agency in the national intelligence community that provided advice to the Treasurer in relation to the decision is entitled to adduce evidence and make submissions.

Treasurer must present all relevant information

(3) It is the duty of the Treasurer to present to the Tribunal all relevant information available to the Treasurer, whether favourable or unfavourable to the applicant.

Member may require parties to attend etc.

(4) A member who is to participate, or who is participating, in the hearing may, at any time, require either or both of the parties to attend or be represented before the member for the purpose of conferring with the member concerning the conduct of the review with a view to identifying the matters in issue or otherwise facilitating the conduct of the proceedings.

Proceedings to be in private

(5) The proceedings are to be in private and, subject to this section, the Tribunal is to determine what people may be present at any time.

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Right of parties etc. to be present

(6) Subject to subsection (9), the applicant and a person representing the applicant may be present when the Tribunal is hearing submissions made or evidence adduced by:

(a) the Treasurer; or

(b) the agency in the national intelligence community that provided advice to the Treasurer.

(7) The Treasurer or a person representing the Treasurer, and a person representing the agency in the national intelligence community that provided advice to the Treasurer, may be present when the Tribunal is hearing submissions made or evidence adduced by the applicant.

National security certificate

(8) The Treasurer may, by signed writing, certify that evidence proposed to be adduced, or submissions proposed to be made, by or on behalf of the Treasurer, or the agency in the national intelligence community that provided advice to the Treasurer, are of such a nature that the disclosure of the evidence or submissions would be contrary to national security.

Note: See also subsection (19).

(9) If such a certificate is given:

(a) the applicant must not be present when the evidence is adduced or the submissions are made; and

(b) a person representing the applicant must not be present when the evidence is adduced or the submissions are made unless the Treasurer consents.

(10) If a person representing the applicant is present when evidence to which a certificate given under subsection (8) relates is adduced or submissions to which such a certificate relates are made, the representative must not disclose any such evidence or submission to the applicant or to any other person.

Penalty: Imprisonment for 2 years.

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Protection of identity of person giving evidence

(11) If the head of an agency in the national intelligence community so requests, the Tribunal must do all things necessary to ensure that the identity of a person giving evidence on behalf of the agency is not revealed.

Evidence and submissions

(12) The Tribunal must first hear evidence adduced, and submissions made, by or on behalf of the Treasurer and any evidence or submissions that the agency in the national intelligence community that provided advice to the Treasurer may wish to adduce or make.

(13) The Tribunal must next permit the applicant, if the applicant so wishes, to adduce evidence before, and make submissions to, the Tribunal.

(14) The Tribunal may, on its own initiative and at any stage of the proceedings, invite a person to give evidence, or cause a person to be summoned to give evidence.

(15) If a person invited or summoned to give evidence under subsection (14) is a member of staff in an agency in the national intelligence community, subsection (8) applies as if any evidence to be given by the person were evidence proposed to be adduced by or on behalf of the agency in the national intelligence community that provided advice to the Treasurer.

(16) If:

(a) a party presents the party's case to the Tribunal; and

(b) after that case has been presented, the other party adduces evidence; and

(c) the Tribunal thinks that, because of evidence adduced by the other party, the first-mentioned party should be further heard;

the Tribunal must give the first-mentioned party an opportunity of adducing further evidence but must not give to the applicant any particulars of any evidence to which a certificate given under subsection (8) relates.

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(17) A member of the Tribunal may ask questions of a witness before the Tribunal and the presiding member may require a witness to answer any such question.

Dismissal of application

(18) If the applicant fails within a reasonable time:
(a) to proceed with the application; or
(b) to comply with a direction by the Tribunal in relation to the application;
the President or an authorised member may dismiss the application without proceeding to review the reviewable decision.

National security certificate not a legislative instrument

(19) A certificate made under subsection (8) is not a legislative instrument.

130H Certain documents and information not to be disclosed in review of reviewable decision

Scope

(1) This section applies to a proceeding in which the Tribunal reviews a reviewable decision.

Treasurer may issue public interest certificate

(2) If the Treasurer certifies, by signed writing, that the disclosure of information with respect to a matter stated in the certificate, or the disclosure of the contents of a document, would be contrary to the public interest:
(a) because it would prejudice Australia's national security; or
(b) because it would involve the disclosure of deliberations or decisions of the Cabinet or a Committee of the Cabinet or of the Executive Council; or
(c) for any other reason stated in the certificate that could form the basis for a claim by the Crown in right of the Commonwealth in a judicial proceeding that the information or the contents of the document should not be disclosed;

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the following provisions of this section have effect.

Note: See also subsection (11).

Protection of information etc.

(3) A person who is required by or under this Act or the AAT Act to disclose the information or to produce the document to the Tribunal for the purposes of a proceeding is not excused from the requirement, but the Tribunal must, subject to subsections (4), (5) and (7) and section 46 of the AAT Act, do all things necessary to ensure:

(a) that the information or the contents of the document are not disclosed to anyone other than a member of the Tribunal as constituted for the purposes of the proceeding; and

(b) in respect of a document produced to the Tribunal—that the document is returned to the person by whom it was produced.

(4) Subsection (3) does not apply in relation to disclosure to the Treasurer or the Treasurer's representative if the reason stated in the certificate is the reason referred to in paragraph (2)(a).

Disclosure of information etc.

(5) If:

(a) the Treasurer has certified in accordance with subsection (2) that the disclosure of information or of the contents of a document would be contrary to the public interest but the certificate does not state a reason referred to in paragraph (2)(a) or (b); and

(b) the presiding member presiding is satisfied that the interests of justice outweigh the reason stated by the Treasurer;

the presiding member may authorise the disclosure of the information, or of the contents of the document to, the applicant.

What presiding member must consider in deciding whether to authorise disclosure of information etc.

(6) In considering whether information or the contents of a document should be disclosed as mentioned in subsection (5):

(a) the presiding member must take as the basis of the presiding member's consideration the principle that it is desirable, in

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the interest of ensuring that the Tribunal performs its functions effectively, that the parties should be made aware of all relevant matters; but

(b) the presiding member must pay due regard to any reason stated by the Treasurer in the certificate as a reason why the disclosure of the information or of the contents of the document, as the case may be, would be contrary to the public interest.

Disclosure of information etc. to staff of Tribunal

(7) This section does not prevent the disclosure of information or of the contents of a document to a member of the Tribunal's staff in the course of the performance of the person's duties as a member of the Tribunal's staff.

Public interest

(8) This section excludes the operation, apart from this section, of any rules of law relating to the public interest that would otherwise apply in relation to the disclosure of information or of the contents of documents in a proceeding.

Copy of document

(9) If the Treasurer has given a certificate under subsection (2) in respect of a document, this section applies in relation to a document that is a copy of the first-mentioned document as if the copy were the original document.

Duty of Tribunal

(10) It is the duty of the Tribunal, even though there may be no relevant certificate under this section, to ensure, so far as it is able to do so, that, in or in connection with a proceeding, information is not communicated or made available to a person contrary to the requirements of security.

Public interest certificate not a legislative instrument

(11) A certificate made under subsection (2) is not a legislative instrument.

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130J Tribunal's decision on review

Despite subsection 43(1A) of the AAT Act, section 43 of the AAT has effect subject to section 130K of this Act.

Note: See also paragraph 130N(c).

130K Findings of Tribunal

Findings

(1) Once the Tribunal has concluded a review of a reviewable decision, the Tribunal must make and record its findings in relation to the reviewable decision. Those findings may state the Tribunal's opinion as to the correctness of, or justification for, any opinion, advice or information contained in the decision.

Copies of findings to be given to parties etc.

(2) Subject to subsection (3), the Tribunal must cause copies of its findings to be given to the applicant and the Treasurer.

(3) The Tribunal may direct that the whole or a particular part of its findings, so far as they relate to a matter that has not already been disclosed to the applicant, is not to be given to the applicant.

Applicant may publish findings

(5) Subject to any direction by the Tribunal, the applicant is entitled to publish, in any manner that the applicant thinks fit, the findings of the Tribunal given to the applicant.

Tribunal may attach comments to findings

(6) The Tribunal may attach to a copy of findings to be given to the Treasurer under this section, any comments the Tribunal wishes to make on matters relating to procedures or practices of the Department of the Treasury that have come to the Tribunal's attention as a result of a review.

(7) The Tribunal must give the Treasurer a copy of any comments attached as mentioned in subsection (6).

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130L Restriction on Treasurer's powers after review

If the Tribunal has made findings upon a review of a reviewable decision, the Treasurer must not exercise the Treasurer's powers under this Act in respect of the action concerned that is not in accordance with those findings except on the basis:

(a) of matters or material changes occurring after the review; or

(b) of which evidence was not available at the time of the review.

130M Costs

(1) If:

(a) a person makes an application to the Tribunal under section 130A for a review of a reviewable decision; and

(b) the applicant was, in the opinion of the Tribunal, successful, or substantially successful, in the application for review; and

(c) the Tribunal is satisfied that it is appropriate to do so in all the circumstances of the case;

the Tribunal may order that the costs reasonably incurred by the applicant in connection with the application, or any of those costs that is determined by the Tribunal, be paid by the Commonwealth.

Interaction with the AAT Act

(2) For the purposes of section 69A of the AAT Act, the Commonwealth is taken to be a party to the proceeding referred to in subsection (1) of this section.

130N Interaction with the AAT Act

The following do not apply in relation to a proceeding for the review of a reviewable decision:

(a) Division 2 of Part IV of the AAT Act (other than sections 32 and 33 of the AAT Act);

(b) Division 3 of Part IV of the AAT Act;

(c) sections 35, 36, 36A, 36B, 36C, 36D, 37, 38, 39 and 43AAA of the AAT Act.

Note: The application of other provisions of the AAT Act are modified in their application under this Division.

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208 Section 132 (heading)

Repeal the heading, substitute:

132 Powers of courts

209 After paragraph 132(1)(a)

Insert:

(aa) if the contravention was taking an action before a review provided for by section 79A has been completed and an event mentioned in subparagraph 79A(3)(b)(i), (ii), (iii) or (iv) occurs, in relation to an acquisition of an interest in Australian land—to preserve the interest; or

210 Before paragraph 132(1)(b)

Insert:

(ab) if the contravention was holding an interest in more than one established dwelling at the same time, or acquiring an interest in an established dwelling (see section 95)—to preserve the interest; or

211 At the end of subsection 132(1)

Add:

; or (d) if the contravention was of a condition of a notice imposing conditions—to achieve the purpose for which the condition was imposed by the Treasurer.

212 Subsection 132(3) (table item 3, column headed "In relation to …")

After "the acquisition", insert "or holding".

213 Subsection 133(2) (note)

Omit "77(4)", substitute "77(7)".

214 Paragraph 133(3)(a)

Repeal the paragraph, substitute:

(a) in the case of an action in respect of which the Treasurer has given a notice under subsection 66A(4) or a notifiable national security action—a period (which may be less than

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14 days) within which the information must be given or the documents produced; and

(aa) in any other case—a period (of at least 14 days) within which the information must be given or the documents produced; and

215 Subsection 133(3)

After "paragraph (a)", insert "or (aa)".

216 After paragraph 135(3)(a)

Insert:

(aa) a notice required by a condition imposed in a notice imposing conditions; and

217 Paragraph 135(3)(b)

After "notifiable actions", insert "and notifiable national security actions".

218 Paragraph 135(3)(c)

Omit "actions that are not notifiable", substitute "certain".

219 Subsection 137(1)

Omit "(except under sections 105, 106, 107 and 110)", substitute "(except under subsection 122(4) or section 105, 106, 107 or 110)".

220 At the end of subsection 137(1)

Add:

Note: Subsection 122(4) is about determining laws for the purposes of disclosing protected information to Commonwealth Ministers and Commonwealth bodies.

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Part 2—Amendments of other Acts

Administrative Appeals Tribunal Act 1975

221 Subsection 25(6)

Repeal the subsection, substitute:

Enactment may add to, exclude or modify operation of certain provisions

(6) If an Act provides for applications to the Tribunal:

(a) that Act may also include provisions adding to, excluding or modifying the operation of any of the provisions of this Act in relation to such applications; and

(b) those provisions have effect subject to any provisions so included.

(6A) If an enactment (other than an Act) provides for applications to the Tribunal:

(a) that enactment may also include provisions adding to, excluding or modifying the operation of any of the provisions of sections 27, 29, 29AB, 29AC, 32, 33 and 35 or of subsection 41(1) or 43(1) or (2) in relation to such applications; and

(b) those sections and subsections have effect subject to any provisions so included.

222 Paragraph 46(1)(a)

After "39B(3)" insert "of this Act, and subsection 130H(3) of the *Foreign Acquisitions and Takeovers Act 1975*".

223 Subsection 46(2)

After "39B(2)", insert "of this Act, or subsection 130H(3) of the *Foreign Acquisitions and Takeovers Act 1975*,".

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224 Paragraph 46(3)(a)

Omit "39B(2)(a),", substitute "39B(2)(a) of this Act or subsection 130H(3) of the *Foreign Acquisitions and Takeovers Act 1975*,".

Security of Critical Infrastructure Act 2018

225 After subsection 32(3)

Insert:

(3A) For the purposes of paragraph (3)(d), Division 3 of Part 3 of the *Foreign Acquisitions and Takeovers Act 1975* is to be ignored.

Taxation Administration Act 1953

226 Subsection 355-65(4) in Schedule 1 (after table item 7)

Insert:

7A	a person appointed by the Commonwealth for the purposes of the *Foreign Acquisitions and Takeovers Act 1975*	is for the purpose of advising the Treasurer in relation to the administration of that Act.

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Part 3—Application and transitional provisions

Division 1—National security reviews and last resort power

227 Application—notices of actions that are notifiable national security actions

If:

(a) between the period beginning on 1 July 2020 and ending on 31 December 2020, a person gives a notice to the Treasurer of a proposal to take an action; and

(b) the action is to acquire an interest in a security, asset, trust or Australian land; and

(c) before 1 January 2021, the person has not entered into an agreement to acquire the interest; and

(d) on 1 January 2021, the action is a notifiable national security action and not a significant action or a notifiable action;

the action is, for the purposes of the *Foreign Acquisitions and Takeovers Act 1975* as amended by this Schedule, taken to be notified to the Treasurer as a notifiable national security action on 1 January 2021.

228 Application—notices of actions that are reviewable national security actions

If:

(a) between the period beginning on 1 July 2020 and ending on 31 December 2020, a person gives a notice to the Treasurer of a proposal to take an action; and

(b) the action is to acquire an interest in a security, asset, trust or Australian land; and

(c) before 1 January 2021, the person has not entered into an agreement to acquire the interest; and

(d) on 1 January 2021, the action is a reviewable national security action;

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the action is, for the purposes of the *Foreign Acquisitions and Takeovers Act 1975* as amended by this Schedule, taken to be notified to the Treasurer as a reviewable national security action on 1 January 2021.

229 Application—national security review of actions

Section 66A of the *Foreign Acquisitions and Takeovers Act 1975*, as inserted by this Schedule, applies in relation to an action that is taken, or proposed to be taken, on or after 1 January 2021.

230 Application—prohibition orders

The amendments of sections 67 and 70 of the *Foreign Acquisitions and Takeovers Act 1975* made by this Schedule apply in relation to an action proposed to be taken on or after 1 January 2021, unless the action is a significant action that is notified to the Treasurer before 1 January 2021.

231 Application—disposal orders

The amendments of sections 69 and 70 of the *Foreign Acquisitions and Takeovers Act 1975* made by this Schedule apply in relation to an action taken on or after 1 January 2021, unless the action is a significant action that is notified to the Treasurer before 1 January 2021.

232 Application—no objection notifications

No objection notifications

(1) The amendments of sections 74 and 75 of the *Foreign Acquisitions and Takeovers Act 1975* made by this Schedule (other than item 120) apply in relation to an action taken, or proposed to be taken, on or after 1 January 2021.

Variation of no objection notifications

(2) The amendment of section 74 of the *Foreign Acquisitions and Takeovers Act 1975* made by item 120 of this Schedule applies in relation to a no objection notification given on or after 1 January 2021, unless it is given in respect of a significant action that is notified to the Treasurer before 1 January 2021.

(3) Paragraph 76(8)(a) of the *Foreign Acquisitions and Takeovers Act 1975*, as inserted by this Schedule, applies in relation to a no objection

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notification given on or after 1 January 2021, unless it is given in respect of a significant action that is notified to the Treasurer before 1 January 2021.

(4) Paragraph 76(8)(b) of the *Foreign Acquisitions and Takeovers Act 1975*, as inserted by this Schedule, applies in relation to a no objection notification given on or after 1 January 2021.

Content of no objection notifications

(5) The amendment of subsection 76(1) of the *Foreign Acquisitions and Takeovers Act 1975* made by this Schedule applies in relation to a no objection notification given on or after 1 January 2021, unless it is given in respect of a significant action that is notified to the Treasurer before 1 January 2021.

233 Application—time limits etc. and information requested by the Treasurer

The amendments of sections 82 and 133 of the *Foreign Acquisitions and Takeovers Act 1975* made by this Schedule apply in relation to:

(a) notices given to the Treasurer on or after 1 January 2021 (other than notices given in respect of notifiable actions that are not significant actions); or

(b) notices given by the Treasurer under subsection 66A(4) of that Act on or after 1 January 2021.

234 Application—last resort power

Division 3 of Part 3 of the *Foreign Acquisitions and Takeovers Act 1975*, as inserted by this Schedule, applies in relation to:

(a) a no objection notification given on or after 1 January 2021, unless it is given in respect of a significant action that is notified to the Treasurer before, or taken before, 1 January 2021; or

(b) an action taken on or after 1 January 2021 if, at the time it was taken, the action or the kind of action was specified in an exemption certificate in force under Division 5 of Part 2 or the regulations (even if the certificate was given, or taken to have been given, before 1 January 2021); or

(c) an action taken on or after 1 January 2021 if, at the time it was taken, the interest or kind of interest to which the action

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relates was specified in an exemption certificate in force under Division 5 of Part 2 or the regulations (even if the certificate was given, or taken to have been given, before 1 January 2021); or

(d) an action in respect of which an order under section 67 was not made by the Treasurer before the end of the period specified in an interim order, unless the action is a significant action that is notified to the Treasurer before 1 January 2021; or

(e) an action in respect of which an order or decision under Division 2 was not made by the Treasurer before the end of the decision period referred to in section 77, unless the action is a significant action that is notified to the Treasurer before 1 January 2021.

235 Application—making of orders

Division 4 of Part 3 of the *Foreign Acquisitions and Takeovers Act 1975*, as inserted by this Schedule, applies in relation to an order that is registered on the Federal Register of Legislation on or after 1 January 2021.

236 Transitional—variation and revocation of orders

(1) Division 4 of Part 3 of the *Foreign Acquisitions and Takeovers Act 1975*, as inserted by this Schedule, applies in relation to the variation or revocation of an order that is registered on the Federal Register of Legislation on or after 1 January 2021, even if the order was made under the old law before that day.

(2) In this item:

old law means sections 71 and 72 of the *Foreign Acquisitions and Takeovers Act 1975* as in force immediately before 1 January 2021.

237 Application—record-keeping

The amendments of section 117 of the *Foreign Acquisitions and Takeovers Act 1975* made by this Schedule apply in relation to actions taken on or after 1 January 2021.

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Division 2—Other amendments

238 Application—businesses carried on by the Commonwealth, States, Territories or local governing bodies

Section 8 of the *Foreign Acquisitions and Takeovers Act 1975*, as amended by this Schedule, applies in relation to actions taken, or proposed to be taken, on or after 1 January 2021.

239 Application—increasing percentage of interests without acquiring additional interests in securities

(1) Paragraph 18A(1)(b) of the *Foreign Acquisitions and Takeovers Act 1975*, as inserted by this Schedule, applies in relation to a percentage interest in an entity that increases on or after 1 January 2021.

(2) Paragraph 18A(2)(b) of the *Foreign Acquisitions and Takeovers Act 1975*, as inserted by this Schedule, applies in relation to a percentage interest in an entity that may increase on or after 1 January 2021.

240 Application—tracing interests

Section 19 of the *Foreign Acquisitions and Takeovers Act 1975*, as amended by this Schedule, applies in relation to actions taken, or proposed to be taken, on or after 1 January 2021.

241 Application—change in control test

Sections 40, 41 and 54 of the *Foreign Acquisitions and Takeovers Act 1975*, as amended by this Schedule, apply in relation to actions taken, or proposed to be taken, on or after 1 January 2021.

242 Application—sections 62A and 76A (false or misleading information and documents)

Sections 62A and 76A of the *Foreign Acquisitions and Takeovers Act 1975*, as inserted by this Schedule, apply in relation to information or documents given to the Treasurer before, on or after the commencement of this item.

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243 Application—section 62B (effect of revocation or variation of exemption certificate)

Section 62B of the *Foreign Acquisitions and Takeovers Act 1975*, as inserted by this Schedule, applies in relation to revocations or variations made on or after the commencement of this item.

244 Application—time limits and decision period extensions

(1) Section 77 of the *Foreign Acquisitions and Takeovers Act 1975*, as substituted by this Schedule, and section 77A of that Act, as inserted by this Schedule, (the ***time limit provisions***) apply, subject to subitem (2), in relation to events set out in the table in subsection 77(6) (as so inserted) that occur on or after 1 January 2021.

(2) However, for the event set out in item 5 of the table in subsection 77(6) of that Act, the time limit provisions do not apply if the order or decision under Division 2 of Part 3 of that Act that was set aside by a court was purported to be made before 1 January 2021.

(3) Section 77 of that Act, as in force immediately before its repeal by this Schedule, continues to apply in relation to notices received by the Treasurer before 1 January 2021, as if that repeal had not happened.

245 Application—directions

(1) A direction under subsection 79R(3) of the *Foreign Acquisitions and Takeovers Act 1975*, as inserted by this Schedule, may be made on or after the time this item commences, if the relevant condition mentioned in paragraph 79R(1)(a) or (b) of that Act, as inserted by this Schedule, for making the direction was met at or after that time.

(2) An interim direction under subsection 79V(3) of the *Foreign Acquisitions and Takeovers Act 1975*, as inserted by this Schedule, may be made on or after the time this item commences, if the relevant condition mentioned in subparagraph 79V(1)(a)(i) or (ii) of that Act (as inserted by this Schedule) for making the interim direction was met at or after that time.

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246 Application—amount of civil penalty for failing to give notice

Subsection 91(4) of the *Foreign Acquisitions and Takeovers Act 1975*, as added by this Schedule, applies in relation to contraventions of section 91 (failing to give notice) of that Act that occur on or after 1 January 2021.

247 Transitional—notice of action that is notifiable but not significant

(1) This item applies if:

(a) the Treasurer is satisfied that during the period:

(i) beginning on 1 December 2015; and

(ii) ending immediately before 1 January 2021;

a person took an action that is a notifiable action but not a significant action; and

(b) the person did not give notice under section 81 of the *Foreign Acquisitions and Takeovers Act 1975* of the action before the action was taken.

(2) Subsection 113(1) of that Act applies as if it also provided that the person must pay a fee to the Treasurer if and when the person gives a notice to the Treasurer of the action.

Note: The amount of the fee is in regulations made under the *Foreign Acquisitions and Takeovers Fees Imposition Act 2015*.

248 Application—vacancy fee returns where persons jointly hold interest in land

The amendment of section 115D of the *Foreign Acquisitions and Takeovers Act 1975* made by this Schedule applies in relation to vacancy years ending on or after 31 December 2020.

249 Application—more coordinated information sharing and gathering

(1) The amendments of the following provisions made by this Schedule apply in relation to records, disclosures and uses of information on or after 1 January 2021 (whether the information is obtained before, on or after that day):

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(a) Division 3 of Part 7 of the *Foreign Acquisitions and Takeovers Act 1975*;
(b) subsection 355-65(4) in Schedule 1 to the *Taxation Administration Act 1953*.

(2) For the purposes of paragraph 123B(1)(d) of the *Foreign Acquisitions and Takeovers Act 1975*, as inserted by this Schedule, it is irrelevant whether the agreement referred to in that paragraph is entered into, or comes into force, before or after 1 January 2021.

250 Application—court orders

Paragraph 132(1)(ab) of the *Foreign Acquisitions and Takeovers Act 1975*, as inserted by this Schedule, applies in relation to contraventions occurring on or after 1 January 2021.

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Schedule 2—Compliance and enforcement

Part 1—Amendments

Foreign Acquisitions and Takeovers Act 1975

1 Section 4

Insert:

authorised officer means a person appointed as an authorised officer under subsection 101E(1).

tier 3 infringement notice has the meaning given by subsection 101(4).

2 Section 83

Omit:

> Generally, the penalty for bodies corporate is 5 times the amount for individuals (see section 4B of the *Crimes Act 1914* and subsection 82(5) of the Regulatory Powers Act).
>
> An officer of a corporation who authorises or permits the corporation to commit an offence or contravene a civil penalty provision may also commit an offence or contravene a civil penalty provision. Similarly, an officer of a corporation may contravene a civil penalty provision by failing to prevent a contravention of the civil penalty provision by the corporation.
>
> Civil penalty orders may be sought and infringement notices issued under the Regulatory Powers Act.

substitute:

> An officer of a corporation who authorises or permits the corporation to commit an offence or contravene a civil penalty provision may also commit an offence or contravene a civil penalty provision. Similarly, an officer of a corporation may contravene a

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civil penalty provision by failing to prevent a contravention of the civil penalty provision by the corporation.

The Regulatory Powers Act applies in relation to civil penalty orders, infringement notices, searches and enforceable undertakings under this Act. The Treasurer may give directions if the Treasurer has reason to believe that a person has engaged, or is engaging, in conduct that contravenes, or will contravene, this Act.

3 Section 84 (penalty)

Repeal the penalty, substitute:

Penalty: Imprisonment for 10 years, or 15,000 penalty units (or 150,000 penalty units if the person is a corporation), or both.

4 Section 85 (penalty)

Repeal the penalty, substitute:

Penalty: Imprisonment for 10 years, or 15,000 penalty units (or 150,000 penalty units if the person is a corporation), or both.

5 Section 86 (penalty)

Repeal the penalty, substitute:

Penalty: Imprisonment for 10 years, or 15,000 penalty units (or 150,000 penalty units if the person is a corporation), or both.

6 Section 87 (penalty)

Repeal the penalty, substitute:

Penalty: Imprisonment for 10 years, or 15,000 penalty units (or 150,000 penalty units if the person is a corporation), or both.

7 Subsection 88(1) (penalty)

Repeal the penalty, substitute:

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Penalty: Imprisonment for 10 years, or 15,000 penalty units (or 150,000 penalty units if the developer is a corporation), or both.

8 Section 89

Before "A person", insert "(1)".

9 Section 89 (penalty)

Repeal the penalty.

10 At the end of section 89

Add:

(2) A person who contravenes subsection (1) is liable to a civil penalty.

Penalty

(3) The maximum penalty for the contravention is the lesser of the following:
  (a) 2,500,000 penalty units;
  (b) the greater of the following:
    (i) 5,000 penalty units (or 50,000 penalty units if the person is a corporation);
    (ii) the amount worked out under section 98F for the action in relation to which the order was made.

11 Section 92

Before "A foreign person", insert "(1)".

12 Section 92 (penalty)

Repeal the penalty.

13 At the end of section 92

Add:

(2) A person who contravenes subsection (1) is liable to a civil penalty.

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Penalty

(3) The maximum penalty for the contravention is the lesser of the following:
  (a) 2,500,000 penalty units;
  (b) the greater of the following:
    (i) 5,000 penalty units (or 50,000 penalty units if the person is a corporation);
    (ii) the amount worked out under section 98F for the action.

14 Section 93

Repeal the section, substitute:

93 Contravening conditions

Conditions in no objection notifications

(1) A person who is given a no objection notification must not contravene a condition specified in the notification that relates to a core Part 3 action.

(2) A person who contravenes subsection (1) is liable to a civil penalty.

(3) The maximum penalty for the contravention is the lesser of the following:
  (a) 2,500,000 penalty units;
  (b) the greater of the following:
    (i) 5,000 penalty units (or 50,000 penalty units if the person is a corporation);
    (ii) the amount worked out under section 98F for the core Part 3 action.

Conditions in notice imposing conditions

(4) A person who is given a notice imposing conditions must not contravene a condition specified in the notice that relates to an action.

(5) A person who contravenes subsection (4) is liable to a civil penalty.

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(6) The maximum penalty for the contravention is the lesser of the following:
  (a) 2,500,000 penalty units;
  (b) the greater of the following:
    (i) 5,000 penalty units (or 50,000 penalty units if the person is a corporation);
    (ii) the amount worked out under section 98F for the action.

Conditions in exemption certificates

(7) A person who is specified in an exemption certificate must not contravene a condition specified in the certificate.

Civil penalty: 5,000 penalty units (or 50,000 penalty units if the person is a corporation).

15 Subsection 94(4)

Repeal the subsection, substitute:

Penalty

(4) The maximum penalty for the contravention is the greatest of the following:
  (a) the amount of the capital gain that was made or would be made on the disposal of the interest in the relevant residential land;
  (b) 25% of the consideration for the residential land acquisition;
  (c) 25% of the market value of the interest in the relevant residential land.

Note 1: ***Consideration*** is defined by the regulations (see section 4).

Note 2: For how to work out the capital gain, see section 98.

16 At the end of Division 3 of Part 5

Add:

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Subdivision D—Other civil penalties

98A Contravening directions and interim directions

(1) A person contravenes this subsection if:
  (a) the person:
    (i) has been directed by the Treasurer under subsection 79R(3) in relation to a relevant contravention as mentioned in subsection 79R(1); or
    (ii) has been directed by the Treasurer under subsection 79V(3) in relation to a relevant contravention as mentioned in subsection 79V(1); and
  (b) the provision to which the relevant contravention relates is a civil penalty provision; and
  (c) the person engages in conduct; and
  (d) the person does so in contravention of the direction.

(2) A person who contravenes subsection (1) is liable to a civil penalty.

(3) The maximum penalty for the contravention is:
  (a) unless paragraph (b) applies—5,000 penalty units; or
  (b) if the person is a corporation—50,000 penalty units.

98B False or misleading information and documents

Information or documents relevant to no objection notification

(1) A person contravenes this subsection if:
  (a) the person is given a no objection notification, or is specified in a no objection notification; and
  (b) before the no objection notification was given, the person gave the Treasurer information that was or documents that were:
    (i) relevant to the no objection notification; and
    (ii) relevant to one or more core Part 3 actions to which the no objection notification relates; and
  (c) the information was or the documents were false or misleading in a material particular.

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(2) A person who contravenes subsection (1) is liable to a civil penalty.

(3) The maximum penalty for the contravention is the lesser of the following:
  (a) 2,500,000 penalty units;
  (b) the greater of the following:
    (i) 5,000 penalty units (or 50,000 penalty units if the person is a corporation);
    (ii) the sum of the amounts worked out under section 98F for each of the core Part 3 actions mentioned in subparagraph (1)(b)(ii).

Information or documents relevant to exemption certificate

(4) A person contravenes this subsection if:
  (a) an exemption certificate relates to a person; and
  (b) before the exemption certificate was given, the person gave the Treasurer information that was or documents that were:
    (i) relevant to the exemption certificate; and
    (ii) relevant to one or more core Part 3 actions to which the exemption certificate relates; and
  (c) the information was or the documents were false or misleading in a material particular.

(5) A person who contravenes subsection (4) is liable to a civil penalty.

(6) The maximum penalty for the contravention is:
  (a) unless paragraph (b) applies—5,000 penalty units; or
  (b) if the person is a corporation—50,000 penalty units.

Information or documents may be false or misleading by omission

(7) To avoid doubt, for the purposes of this section, information or documents may be false or misleading in a material particular because of the omission of a matter or thing.

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98C Failure to notify Treasurer of taking of action specified in no objection notification

(1) Subsection (2) applies if:

(a) a person:

(i) is given a no objection notification specifying one or more core Part 3 actions; or

(ii) is specified in a no objection notification specifying one or more core Part 3 actions; and

(b) the person takes one of those core Part 3 actions; and

(c) if regulations made for the purposes of this paragraph specify requirements—those requirements are met.

(2) The person must give the Treasurer a notice in accordance with subsection (3) no later than 30 days after the latest of the following days:

(a) the day on which the person took the core Part 3 action;

(b) the day on which the no objection notice was given;

(c) if the core Part 3 action is the acquisition of an interest in a security, asset, trust or Australian land, and section 15 applies in relation to the acquisition—the day on which the person acquired the interest in a security, asset, trust or Australian land (disregarding section 15).

Civil penalty: 250 penalty units.

(3) The notice must:

(a) describe the core Part 3 action; and

(b) state the day on which it was taken; and

(c) meet any other requirements specified in regulations made for the purposes of this paragraph.

98D Failure to notify taking of action related to exemption certificate

(1) Subsection (2) applies if:

(a) an exemption certificate relates to one or more core Part 3 actions; and

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(b) the person to whom the exemption certificate relates takes one of those core Part 3 actions; and

(c) if regulations made for the purposes of this paragraph specified requirements—those requirements are met.

(2) The person must give the Treasurer a notice in accordance with subsection (3) no later than 30 days after the latest of the following days:

(a) the day on which the person took the core Part 3 action;

(b) if the core Part 3 action is the acquisition of an interest in a security, asset, trust or Australian land, and section 15 applies in relation to the acquisition—the day on which the person acquired the interest in a security, asset, trust or Australian land (disregarding section 15).

Civil penalty: 250 penalty units.

(3) The notice must:

(a) describe the core Part 3 action; and

(b) state the day on which it was taken; and

(c) meet any other requirements specified in regulations made for the purposes of this paragraph.

98E Failure to notify Treasurer of situations following core Part 3 action

(1) Subsection (2) applies if:

(a) any of the following conditions are satisfied:

(i) a person is given a no objection notification specifying one or more core Part 3 actions;

(ii) a person is specified in a no objection notification specifying one or more core Part 3 actions;

(iii) an exemption certificate relating to a person relates to one or more core Part 3 actions; and

(b) the person takes one of those core Part 3 actions; and

(c) a situation mentioned in subsection (2) arises after the person takes that core Part 3 action; and

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(d) if that situation is the situation mentioned in paragraph (2)(a)—the person becomes aware, or ought reasonably to have become aware, of the situation; and

(e) if regulations made for the purposes of this paragraph specify requirements—those requirements are met.

(2) The situations are as follows:

(a) if none of the following paragraphs apply—there is a change in control of the entity or business to which the core Part 3 action relates;

(b) if the core Part 3 action is an acquisition of a direct interest in an Australian entity—the person ceases to have a direct interest in the Australian entity;

(c) if the core Part 3 action is an acquisition of an interest of any percentage in an entity or a business—the person starts to hold an interest of a percentage in the entity or business that is equal to or less than the interest of the percentage that the person held in the entity or business immediately before the acquisition;

(d) if the core Part 3 action is an acquisition of an interest in Australian land—the person ceases to hold all or part of that interest;

(e) if the core Part 3 action is an action specified in regulations made for the purposes of section 44 and the regulations specify one or more situations for the significant action for the purposes of this paragraph—any of those situations cease to exist;

(f) if the core Part 3 action is an action specified in regulations made for the purposes of section 44 and paragraph (e) of this subsection does not apply:

(i) if the core Part 3 action relates to acquiring an interest of at least a certain percentage in an entity or business—the person ceases to have an interest of at least that percentage in the entity or business; or

(ii) if the core Part 3 action relates to acquiring a direct interest in an entity or business—the person ceases to have a direct interest in the entity or business; or

(iii) if the core Part 3 action relates to starting a business—the person ceases to carry on the business; or

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(iv) if the core Part 3 action relates to acquiring an interest in a tenement—the person ceases to hold all or part of that interest; or

(v) if the core Part 3 action relates to acquiring an interest of at least a certain percentage of the securities of an entity—the person ceases to have an interest of at least that percentage of the securities of the entity.

(3) The person must give the Treasurer a notice in accordance with subsection (4) no later than 30 days after the later of the following days:

(a) the day on which the situation mentioned in subsection (2) arose;

(b) the day on which the no objection notice or exemption certificate was given.

Civil penalty: 250 penalty units.

(4) The notice must:

(a) describe the core Part 3 action; and

(b) state the day on which it was taken; and

(c) describe the situation mentioned in subsection (2) that arose; and

(d) state the day on which it arose; and

(e) meet any other requirements specified in regulations made for the purposes of this paragraph.

Subdivision E—Miscellaneous

98F Civil penalty amounts for penalty provision based on value

(1) For the purpose of working out the maximum penalty for a contravention of a civil penalty provision, the amount under this section for an action is 75% of the amount determined under subsection (3) for the action.

(2) For the purposes of subsection (1), if the relevant civil penalty provision is subsection 98B(1), treat the amount determined under subsection (3) of this section for the action as being the sum of the

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amounts, determined under subsection (3) of this section, for each of the core Part 3 actions mentioned in subparagraph 98B(1)(b)(ii).

(3) For the purposes of subsection (1), the amount for the action is:

(a) the value for the action worked out under the following table; or

(b) if no item of the table applies to the action:

(i) where the action is an acquisition—the value of the consideration for the acquisition; or

(ii) otherwise—the market value of the benefit obtained by the action.

Amount for actions

Item	For this kind of action …	that is mentioned in any of these provisions …	the amount is …
1	an acquisition of a direct interest in an entity or a business	paragraph 40(2)(a) (significant action) paragraph 47(2)(a) (notifiable action) paragraph 55B(1)(b) or (c) (notifiable national security action)	the greater of the following: (a) the value of the consideration for the acquisition; (b) the market value of the direct interest.
2	an acquisition of an interest of any percentage in an entity or a business	paragraph 55D(1)(a) or subparagraph 55E(1)(a)(i) (reviewable national security action)	the greater of the following: (a) the value of the consideration for the acquisition; (b) the market value of the interest.
3	an acquisition of a substantial interest in an Australian entity	paragraph 47(2)(b) (notifiable action)	the greater of the following: (a) the value of the consideration for the acquisition; (b) the market value of the substantial interest.
4	an acquisition of interests in securities in an entity	paragraph 40(2)(b) (significant action)	the greater of the following: (a) the value of the consideration for the acquisition;

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Amount for actions			
Item	**For this kind of action …**	**that is mentioned in any of these provisions …**	**the amount is …**
			(b) the market value of the interests.
5	an issue of securities in an entity	paragraph 40(2)(c) (significant action) subparagraph 55D(2)(a)(i) (reviewable national security action)	the greater of the following: (a) the value of the consideration for the issue; (b) the market value of the securities.
6	entering into an agreement	paragraph 40(2)(d) (significant action) subparagraph 55D(2)(a)(ii) (reviewable national security action)	the greater of the following: (a) the value of the consideration for the entering into the agreement; (b) the market value of the benefit obtained by the entering into the agreement.
7	an alteration of a constituent document of an entity	paragraph 40(2)(e) (significant action) subparagraph 55D(2)(a)(iii) (reviewable national security action)	the greater of the following: (a) the value of the consideration for the alteration; (b) the market value of the benefit obtained by the alteration.
8	an acquisition of a direct interest in an Australian business that is an agribusiness	paragraph 41(2)(a) (significant action)	the greater of the following: (a) the value of the consideration for the acquisition; (b) the market value of the direct interest.
9	an acquisition of interests in assets	paragraph 41(2)(b) (significant action) subparagraph 55E(1)(a)(ii) (reviewable national security action)	the greater of the following: (a) the value of the consideration for the acquisition; (b) the market value of the

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Amount for actions			
Item	**For this kind of action …**	**that is mentioned in any of these provisions …**	**the amount is …**
			interests.
10	entering into or terminating a significant agreement with an Australian business	paragraph 41(2)(c) (significant action) subparagraph 55E(1)(a)(iii) (reviewable national security action)	the greater of the following: (a) the value of the consideration for the entering into or terminating of the significant agreement; (b) the market value of the benefit obtained by the entering into or terminating of the significant agreement.
11	an acquisition of an interest in Australian land	section 43 (significant action) paragraph 47(2)(c) (notifiable action) paragraph 55B(1)(d) (notifiable national security action) section 55F (reviewable national security action)	the greater of the following: (a) the value of the consideration for the acquisition; (b) the market value of the interest.
12	starting a business	paragraph 55B(1)(a) (notifiable national security action) paragraph 55E(2)(a) (reviewable national security action)	the market value of the business.
13	an acquisition of a legal or equitable interest in an exploration tenement in respect of Australian land	paragraph 55B(1)(e) (notifiable national security action)	the greater of the following: (a) the value of the consideration for the acquisition; (b) the market value of the interest.

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Amount for actions			
Item	**For this kind of action …**	**that is mentioned in any of these provisions …**	**the amount is …**
14	if no previous item applies—an action specified in regulations that specify, or set out a method for determining, an amount for the action	regulations made for the purposes of section 44 (significant action) regulations made for the purposes of section 48 (notifiable action)	that amount.
15	if no previous item applies—an action specified in regulations	regulations made for the purposes of section 44 (significant action) regulations made for the purposes of section 48 (notifiable action)	the greater of the following: (a) the value of the consideration for the action; (b) the market value of the benefit obtained by the action.

(4) In applying the table in subsection (3), disregard the effect of any exemption certificate.

(5) If the action is covered by more than one item of the table in subsection (3), treat the value of the action worked out according to that table as being the greatest of the amounts worked out under those items.

(6) For the purposes of this section:

(a) if there is no consideration for a thing—treat the value of the consideration for the thing as nil; and

(b) if the market value of a thing cannot be ascertained—treat the market value of the thing as nil.

17 Subdivision A of Division 4 of Part 5 (heading)

Repeal the heading, substitute:

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Subdivision A—Application of the Regulatory Powers Act—Civil penalty provisions

18 Subsection 99(2)

Repeal the subsection, substitute:

Authorised applicant

(2) For the purposes of Part 4 of the Regulatory Powers Act:
  (a) each of the Treasurer and the Commissioner of Taxation is an authorised applicant in relation to the civil penalty provisions of this Act (other than section 130ZV); and
  (b) each of the Treasurer, the Commissioner of Taxation and the Registrar is an authorised applicant in relation to section 130ZV.

19 After subsection 99(2B)

Insert:

(2BA) The Registrar may, in writing, delegate to:
  (a) any person to whom the Registrar may delegate any of the Registrar's other functions, as a kind of body or person mentioned in the definition of ***eligible Registrar appointee*** in section 4, under a law of the Commonwealth; or
  (b) any person of a kind prescribed by the regulations;

the Registrar's powers and functions under Part 4 of the Regulatory Powers Act as an authorised applicant in relation to the civil penalty provisions of this Act.

20 Subsection 99(2C)

Omit "or (2B)", substitute ", (2B) or (2BA)".

21 Subsection 99(4)

Repeal the subsection, substitute:

Maximum penalties

(4) Subsection 82(5) of the Regulatory Powers Act does not apply in relation to the following provisions of this Act:

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(a) section 89 (contravening orders under Part 3);
(b) section 91 (failing to give notice);
(c) section 92 (taking action before end of period);
(d) section 92A (taking action while prohibited by this Act);
(e) section 93 (contravening conditions);
(f) section 94 (acquisition of interests in residential land);
(g) section 95 (acquisition of interests in established dwellings);
(h) section 95A (taking action while prohibited by this Act);
(i) section 96 (contravening conditions in relation to residential land);
(j) section 98A (contravening directions and interim directions);
(k) section 98B (false or misleading information and documents);
(l) subsection 102(2) (liability of officers of corporations authorising or permitting contraventions);
(m) section 103 (civil penalties for officers of corporations failing to prevent contraventions).

22 After section 99

Insert:

Subdivision AA—Application of the Regulatory Powers Act—Infringement notices

23 Paragraph 100(1)(a)

Repeal the paragraph, substitute:

(a) the provisions of Division 3 (civil penalties);

24 After paragraph 100(1)(b)

Insert:

(ba) subsection 115DA(1) (vacancy fee liability—false or misleading vacancy fee return);

25 After paragraph 100(1)(c)

Insert:

; (d) section 130ZV (civil penalty for failing to give notice to Registrar).

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26 Subsection 100(2)

Repeal the subsection, substitute:

Infringement officer

(2) For the purposes of Part 5 of the Regulatory Powers Act:

(a) a person appointed under subsection (3) is an infringement officer in relation to the provisions mentioned in subsection (1) (including section 130ZV); and

(b) a person appointed under subsection (3A) is an infringement officer in relation to section 130ZV.

27 After subsection 100(3)

Insert:

(3A) The Registrar may, in writing, appoint a person of a kind prescribed by the regulations.

28 Subsection 100(4)

Repeal the subsection, substitute:

Relevant chief executive

(4) For the purposes of Part 5 of the Regulatory Powers Act:

(a) each of the Secretary and the Commissioner of Taxation is the relevant chief executive in relation to the provisions mentioned in subsection (1) (other than section 130ZV); and

(b) each of the Secretary, the Commissioner of Taxation and the Registrar is the relevant chief executive in relation to section 130ZV.

29 After subsection 100(4B)

Insert:

(4BA) The Registrar may, in writing, delegate to:

(a) any person to whom the Registrar may delegate any of the Registrar's other functions, as a kind of body or person mentioned in the definition of ***eligible Registrar appointee*** in section 4, under a law of the Commonwealth; or

(b) any person of a kind prescribed by the regulations;

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the Registrar's powers and functions under Part 5 of the Regulatory Powers Act as the relevant chief executive in relation to the provisions mentioned in subsection (1).

30 Subsection 100(4C)

Omit "or (4B)", substitute ", (4B) or (4BA)".

31 Subsection 100(5)

Omit "subsection 104(2),", substitute "subsections 104(2) and (3)".

32 Paragraph 100(5)(a)

Repeal the paragraph, substitute:

(a) for subparagraphs 104(1)(e)(ii) and (iii) of the Regulatory Powers Act—the following provisions of this Act:

(i) subsection 89(1) (contravening orders under Part 3);

(ii) subsections 91(1) and (2) (failing to give notice);

(iii) subsection 92(1) (taking action before end of period);

(iv) section 92A (taking action while prohibited by this Act);

(v) subsections 93(1), (4) and (7) (contravening conditions);

(vi) section 94 (acquisition of interests in residential land);

(vii) section 95 (acquisition of interests in established dwellings);

(viii) section 96 (contravening conditions in relation to residential land);

(ix) section 98A (contravening directions and interim directions);

(x) section 98B (false or misleading information and documents);

(xi) sections 98C, 98D and 98E (failure to notify);

(xii) subsection 115DA(1) (vacancy fee liability—false or misleading vacancy fee return); and

33 Paragraph 100(5)(b)

Repeal the paragraph, substitute:

(b) for subsection 104(2) or (3) of the Regulatory Powers Act—the provisions mentioned in paragraphs (1)(a), (b), (ba), (c) and (d) of this section.

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34 At the end of subsection 100(6)

Add:

; and (c) for a tier 3 infringement notice (see subsection 101(4)):

(i) given to an individual—300 penalty units; and

(ii) given to a corporation—1,500 penalty units.

35 Section 101 (heading)

Repeal the heading, substitute:

101 Meanings of *tier 1 infringement notice*, *tier 2 infringement notice* and *tier 3 infringement notice*

36 Paragraphs 101(1)(b) and (c)

Repeal the paragraphs, substitute:

(b) the person:

(i) unless subparagraph (ii) applies—notified (for the purposes of this Act) the Treasurer (or the Commissioner of Taxation on behalf of the Treasurer) of conduct that was the same, or substantially the same, as the conduct constituting the alleged contravention; or

(ii) if the civil penalty provision is section 130ZV—notified (for the purposes of this Act) the Treasurer, the Commissioner of Taxation on behalf of the Treasurer or the Registrar of conduct that was the same, or substantially the same, as the conduct constituting the alleged contravention; and

(c) at the time when the person made that notification, the Commonwealth had not yet indicated to the person, in writing, that the Commonwealth was considering investigating the conduct constituting the alleged contravention.

37 After subsection 101(1)

Insert:

(1A) For the purposes of paragraph (1)(c), treat the Commonwealth as having indicated to the person, in writing, that the Commonwealth was considering investigating the conduct constituting the alleged

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contravention if the Commonwealth gave the person any of the following:

(a) a notice in writing requiring or inviting the person to show cause why the Commonwealth should not investigate that conduct;

(b) a notice in writing indicating that the Commonwealth might issue an infringement notice in relation to that conduct;

(c) any other similar notice in writing.

38 Subsection 101(2)

Repeal the subsection, substitute:

(2) An infringement notice is a ***tier 2 infringement notice*** if:

(a) the notice relates to an alleged contravention by a person of a civil penalty provision of this Act; and

(b) subsection (1) does not apply in relation to the person and the conduct constituting the alleged contravention; and

(c) any of the following apply:

(i) the civil penalty provision is a provision covered by subsection (3);

(ii) if the civil penalty provision is not subsection 95(1) or (4)—the requirement in subsection 101AA(1) is met in relation to the alleged contravention;

(iii) if the civil penalty provision is subsection 95(1) or (4)—the requirement in subsection 101AA(6) is met in relation to the alleged contravention.

(3) For the purposes of subparagraph (2)(c)(i), this subsection covers the following provisions:

(a) subsections 97(1), (1A) and (2);

(b) sections 98A, 98C, 98D and 98E;

(c) subsections 115D(1), 115DA(1) and 115G(1);

(d) section 130ZV.

(4) An infringement notice is a ***tier 3 infringement notice*** if:

(a) the notice relates to an alleged contravention by a person of a civil penalty provision of this Act; and

(b) subsections (1) and (2) do not apply in relation to the person and the conduct constituting the alleged contravention.

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(5) Despite subsections (2) and (4), an infringement notice is a ***tier 2 infringement notice*** (and is not a ***tier 3 infringement notice***) if:
  (a) apart from this subsection, the infringement notice would be a tier 3 infringement notice; and
  (b) the Treasurer has decided that the infringement notice is covered by subsection (6).

(6) The Treasurer may decide that an infringement notice is covered by this subsection if:
  (a) the infringement notice has not yet been given to the person; and
  (b) the Treasurer considers that it is appropriate for the infringement notice to be covered by this subsection, having regard to the matters set out in subsection (7).

(7) For the purposes of paragraph (6)(b), the matters are as follows:
  (a) the conduct of the person after the alleged contravention, including:
    (i) the nature of the steps (if any) that the person has taken to address the alleged contravention; and
    (ii) the extent (if any) to which the person has cooperated with the Treasurer and the Commissioner of Taxation to address the alleged contravention;
  (b) whether the infringement notice being covered by subsection (6) would not be contrary to the national interest.

39 At the end of Subdivision A of Division 4 of Part 5

Add:

101AA Threshold for distinction between tier 2 infringement notices and tier 3 infringement notices

(1) The requirement in this subsection is met in relation to the alleged contravention if the value of the action to which the contravention relates, determined under subsection (3), falls short of:
  (a) if the civil penalty provision is subsection 89(1):
    (i) if that action is an acquisition of an interest in Australian land, and the Australian land is residential land—$5,000,000; or

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(ii) otherwise—$275,000,000; or

(b) if the civil penalty provision is subsection 98B(1) or (4):

(i) if any of the core Part 3 actions mentioned in subparagraph 98B(1)(b)(ii) or 98B(4)(b)(ii) is an acquisition of an interest in Australian land, and the Australian land is residential land—$5,000,000; or

(ii) otherwise—$275,000,000; or

(c) if the civil penalty provision is subsection 91(1) or (2), section 92 or 92A or subsection 93(1), (4) or (7)—$275,000,000; or

(d) otherwise—$5,000,000.

(2) For the purposes of subsection (1), if the civil penalty provision is subsection 98B(1) or (4), treat the value of the action to which the contravention relates, determined under subsection (3) of this section, as being the sum of the values, determined under subsection (3) of this section, for each of the core Part 3 actions mentioned in subparagraph 98B(1)(b)(ii) or 98B(4)(b)(ii).

(3) For the purposes of subsection (1), the value of the action is:

(a) the value for the action worked out under the following table; or

(b) if no item of the table applies to the action:

(i) where the action is an acquisition—the value of the consideration for the acquisition; or

(ii) otherwise—the market value of the benefit obtained by the action.

Values of actions

Item	This kind of action …	that is mentioned in any of these provisions …	has this *value* …
1	an acquisition of a direct interest in an entity or a business	paragraph 40(2)(a) (significant action) paragraph 47(2)(a) (notifiable action) paragraph 55B(1)(b) or (c) (notifiable national security action)	the total of the following: (a) the value of the consideration for the acquisition; (b) the total value of the other interests held by the person, alone or together with one or

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Values of actions			
Item	**This kind of action …**	**that is mentioned in any of these provisions …**	**has this *value* …**
			more associates: (i) in the entity or business; or (ii) previously acquired from the entity or business.
2	an acquisition of an interest of any percentage in an entity or a business	paragraph 55D(1)(a) or subparagraph 55E(1)(a)(i) (reviewable national security action)	the total of the following: (a) the value of the consideration for the acquisition; (b) the total value of the other interests held by the person, alone or together with one or more associates: (i) in the entity or business; or (ii) previously acquired from the entity or business.
3	an acquisition of a substantial interest in an Australian entity	paragraph 47(2)(b) (notifiable action)	the higher of the following: (a) the total asset value for the entity; (b) the total issued securities value for the entity.
4	an acquisition of interests in securities in an entity	paragraph 40(2)(b) (significant action)	the higher of the following: (a) the total asset value for the entity; (b) the total issued securities value for the entity.
5	an issue of securities in an entity	paragraph 40(2)(c) (significant action) subparagraph 55D(2)(a)(i)	the higher of the following: (a) the total asset value for the entity;

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Values of actions			
Item	**This kind of action …**	**that is mentioned in any of these provisions …**	**has this *value* …**
		(reviewable national security action)	(b) the total issued securities value for the entity.
6	entering into an agreement	paragraph 40(2)(d) (significant action) subparagraph 55D(2)(a)(ii) (reviewable national security action)	the total asset value for the entity to which the agreement relates.
7	an alteration of a constituent document of an entity	paragraph 40(2)(e) (significant action) subparagraph 55D(2)(a)(iii) (reviewable national security action)	the total asset value for the entity.
8	an acquisition of a direct interest in an Australian business that is an agribusiness	paragraph 41(2)(a) (significant action)	the total of the following: (a) the value of the consideration for the acquisition; (b) the total value of the other interests held by the person, alone or together with one or more associates: (i) in the business; or (ii) previously acquired from the business.
9	an acquisition of interests in assets	paragraph 41(2)(b) (significant action) subparagraph 55E(1)(a)(ii) (reviewable national security action)	the value of the consideration for the acquisition.
10	entering into or terminating a significant agreement	paragraph 41(2)(c) (significant action) subparagraph 55E(1)(a)(iii) (reviewable national	the total value of the assets of the business.

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Values of actions			
Item	**This kind of action …**	**that is mentioned in any of these provisions …**	**has this *value* …**
	with an Australian business	security action)	
11	an acquisition of an interest in Australian land	section 43 (significant action) paragraph 47(2)(c) (notifiable action) paragraph 55B(1)(d) (notifiable national security action) section 55F (reviewable national security action)	the greater of the following: (a) the value of the consideration for the acquisition; (b) the market value of the interest.
12	starting a business	paragraph 55B(1)(a) (notifiable national security action) paragraph 55E(2)(a) (reviewable national security action)	the market value of the business.
13	an acquisition of a legal or equitable interest in an exploration tenement in respect of Australian land	paragraph 55B(1)(e) (notifiable national security action)	the greater of the following: (a) the value of the consideration for the acquisition; (b) the market value of the interest.
14	if no previous item applies—an action specified in regulations that specify, or set out a method for determining, an amount for	regulations made for the purposes of section 44 (significant action) regulations made for the purposes of section 48 (notifiable action)	that amount.

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Values of actions			
Item	**This kind of action …**	**that is mentioned in any of these provisions …**	**has this *value* …**
	the action		
15	if no previous item applies—an action specified in regulations	regulations made for the purposes of section 44 (significant action) regulations made for the purposes of section 48 (notifiable action)	the greater of the following: (a) the value of the consideration for the action; (b) the market value of the benefit obtained by the action.

(4) In applying the table in subsection (3), disregard the effect of any exemption certificate.

(5) If the action to which the contravention relates is covered by more than one item of the table in subsection (3), treat the value of the action worked out according to that table as being the greatest of the amounts worked out under those items.

(6) The requirement in this subsection is met in relation to the alleged contravention if:

(a) where the civil penalty provision is subsection 95(1)—the total of the market values of the interests referred to in that subsection falls short of $5,000,000; or

(b) where the civil penalty provision is subsection 95(4)—the greater of:

(i) the value of the consideration for the acquisition referred to in that subsection; and

(ii) the market value of the interest referred to in that subsection;

falls short of $5,000,000.

(7) The amounts mentioned in paragraphs (1)(a), (b) and (c) and (6)(a) and (b) may be indexed in accordance with regulations made for the purposes of subsection 139(2).

(8) For the purposes of this section:

(a) if there is no consideration for a thing—treat the value of the consideration for the thing as nil; and

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(b) if the market value of a thing cannot be ascertained—treat the market value of the thing as nil.

40 Before Subdivision B of Division 4 of Part 5

Insert:

Subdivision AB—Application of the Regulatory Powers Act—Monitoring powers

101A Monitoring powers

Provisions subject to monitoring

(1) A provision is subject to monitoring under Part 2 of the Regulatory Powers Act if it is:

(a) a provision of this Act; or

(b) an offence provision of the *Crimes Act 1914* or the *Criminal Code*, to the extent that it relates to this Act.

Note 1: Part 2 of the Regulatory Powers Act creates a framework for monitoring whether this Act has been complied with. It includes powers of entry and inspection.

Note 2: Some provisions of this Act are taxation laws for the purposes of the *Taxation Administration Act 1953* (see subsection 115B(2) and section 138). For provisions dealing with the Commissioner of Taxation's powers to obtain information and evidence in relation to taxation laws, see Division 353 in Schedule 1 to that Act.

Information subject to monitoring

(2) Information given in compliance or purported compliance with this Act is subject to monitoring under Part 2 of the Regulatory Powers Act.

Note: Part 2 of the Regulatory Powers Act creates a framework for monitoring whether the information is correct. It includes powers of entry and inspection.

Related provisions

(3) For the purposes of Part 2 of the Regulatory Powers Act, each of the following provisions is related to the provisions mentioned in subsection (1) and the information mentioned in subsection (2):

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(a) an offence provision, or a civil penalty provision, of the *Taxation Administration Act 1953*;
(b) an offence provision, or a civil penalty provision, of the *Corporations Act 2001*;
(c) a provision in Part 3 or 3B of the *Register of Foreign Ownership of Water or Agricultural Land Act 2015*.

Authorised applicant

(4) For the purposes of Part 2 of the Regulatory Powers Act, each of the following persons is an authorised applicant in relation to the provisions mentioned in subsection (1) and the information mentioned in subsection (2):
(a) the Secretary;
(b) an authorised officer.

Authorised person

(5) For the purposes of Part 2 of the Regulatory Powers Act, an authorised officer is an authorised person in relation to the provisions mentioned in subsection (1) and the information mentioned in subsection (2).

Issuing officer

(6) For the purposes of Part 2 of the Regulatory Powers Act, a person is an issuing officer in relation to the provisions mentioned in subsection (1) and the information mentioned in subsection (2) if:
(a) the person is:
(i) a magistrate; or
(ii) a Judge of a court of a State or Territory; or
(iii) a Judge of the Federal Circuit Court of Australia or of the Federal Court of Australia; and
(b) if subparagraph (a)(iii) applies:
(i) the Minister has, in writing, nominated the person to be such an issuing officer; and
(ii) the person has consented to be such an issuing officer and the consent is in force.

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Relevant chief executive

(7) For the purposes of Part 2 of the Regulatory Powers Act, the Secretary is the relevant chief executive in relation to the provisions mentioned in subsection (1) and the information mentioned in subsection (2).

Relevant court

(8) For the purposes of Part 2 of the Regulatory Powers Act, each of the following courts is a relevant court in relation to the provisions mentioned in subsection (1) and the information mentioned in subsection (2):
  (a) the Federal Court of Australia;
  (b) the Federal Circuit Court of Australia;
  (c) a court of a State or Territory that has jurisdiction in relation to matters arising under this Act.

Person assisting

(9) An authorised person may be assisted by other persons in exercising powers or performing functions or duties under Part 2 of the Regulatory Powers Act in relation to the provisions mentioned in subsection (1) and the information mentioned in subsection (2).

Extension to external Territories

(10) Part 2 of the Regulatory Powers Act, as that Part applies in relation to the provisions mentioned in subsection (1) and the information mentioned in subsection (2), extends to every external Territory.

Subdivision AC—Application of the Regulatory Powers Act—Investigation powers

101B Investigation powers

Provisions subject to investigation

(1) A provision is subject to investigation under Part 3 of the Regulatory Powers Act if it is:
  (a) an offence provision of this Act; or

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(b) a civil penalty provision of this Act; or

(c) an offence provision of the *Crimes Act 1914* or the *Criminal Code*, to the extent that it relates to this Act.

Note: Part 3 of the Regulatory Powers Act creates a framework for investigating whether a provision has been contravened. It includes powers of entry, search and seizure.

Related provisions

(2) For the purposes of Part 3 of the Regulatory Powers Act, each of the following provisions is related to evidential material that relates to a provision mentioned in subsection (1):

(a) an offence provision, or a civil penalty provision, of the *Taxation Administration Act 1953*;

(b) an offence provision, or a civil penalty provision, of the *Corporations Act 2001*;

(c) a provision in Part 3 or 3B of the *Register of Foreign Ownership of Water or Agricultural Land Act 2015*.

Authorised applicant

(3) For the purposes of Part 3 of the Regulatory Powers Act, each of the following persons is an authorised applicant in relation to evidential material that relates to a provision mentioned in subsection (1):

(a) the Secretary;

(b) an authorised officer.

Authorised person

(4) For the purposes of Part 3 of the Regulatory Powers Act, an authorised officer is an authorised person in relation to evidential material that relates to a provision mentioned in subsection (1).

Issuing officer

(5) For the purposes of Part 3 of the Regulatory Powers Act, a person is an issuing officer in relation to evidential material that relates to the provisions mentioned in subsection (1) if:

(a) the person is:

(i) a magistrate; or

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(ii) a Judge of a court of a State or Territory; or
(iii) a Judge of the Federal Circuit Court of Australia or of the Federal Court of Australia; and

(b) if subparagraph (a)(iii) applies:
(i) the Minister has, in writing, nominated the person to be such an issuing officer; and
(ii) the person has consented to be such an issuing officer and the consent is in force.

Relevant chief executive

(6) For the purposes of Part 3 of the Regulatory Powers Act, the Secretary is the relevant chief executive in relation to evidential material that relates to a provision mentioned in subsection (1).

Relevant court

(7) For the purposes of Part 3 of the Regulatory Powers Act, each of the following courts is a relevant court in relation to evidential material that relates to a provision mentioned in subsection (1):
(a) the Federal Court of Australia;
(b) the Federal Circuit Court of Australia;
(c) a court of a State or Territory that has jurisdiction in relation to matters arising under this Act.

Person assisting

(8) An authorised person may be assisted by other persons in exercising powers or performing functions or duties under Part 3 of the Regulatory Powers Act in relation to evidential material that relates to a provision mentioned in subsection (1).

Extension to external Territories

(9) Part 3 of the Regulatory Powers Act, as that Part applies in relation to a provision mentioned in subsection (1), extends to every external Territory.

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Subdivision AD—Application of the Regulatory Powers Act—Enforceable undertakings

101C Enforceable undertakings

Enforceable provisions

(1) The provisions of this Act are enforceable under Part 6 of the Regulatory Powers Act.

Note: Part 6 of the Regulatory Powers Act creates a framework for accepting and enforcing undertakings relating to compliance with provisions.

Authorised person

(2) For the purposes of Part 6 of the Regulatory Powers Act, the Treasurer is an authorised person in relation to the provisions mentioned in subsection (1).

Relevant court

(3) For the purposes of Part 6 of the Regulatory Powers Act, each of the following courts is a relevant court in relation to the provisions mentioned in subsection (1):

(a) the Federal Court of Australia;

(b) the Federal Circuit Court of Australia;

(c) a court of a State or Territory that has jurisdiction in relation to matters arising under this Act.

Extension to external Territories

(4) Part 6 of the Regulatory Powers Act, as that Part applies in relation to a provision mentioned in subsection (1), extends to every external Territory.

101D Publication of undertakings

(1) If the Treasurer accepts an undertaking in relation to a provision mentioned in subsection 101C(1), the Treasurer must ensure that the undertaking is published on a website maintained by the Department as soon as practicable after it is accepted.

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(2) If an undertaking has not yet been published on a website maintained by the Department, the Treasurer may decide, in writing, that publishing the undertaking on such a website would be contrary to the national interest.

(3) If the Treasurer makes a decision under subsection (2) in relation to an undertaking, subsection (1) does not apply to the undertaking.

(4) A failure to comply with subsection (1) in relation to an undertaking does not affect the enforceability of the undertaking under Part 6 of the Regulatory Powers Act, as that Part applies in relation to the provisions of this Act.

Subdivision AE—Application of the Regulatory Powers Act—Miscellaneous

101E Appointment of authorised officers

(1) The Secretary may, in writing, appoint a person who is an APS employee who holds or performs the duties of an APS Level 6 position, or an equivalent or higher position, in the Department as an authorised officer for the purposes of this Division.

(2) The Secretary must not appoint a person as an authorised officer under subsection (1) unless the Secretary is satisfied that the person has suitable training or experience to properly perform the functions, or exercise the powers, of an authorised officer.

(3) An authorised officer must, in performing the authorised officer's functions or exercising the authorised officer's powers, comply with any directions of the Secretary.

(4) If a direction is given under subsection (3) in writing, the direction is not a legislative instrument.

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101F Delegation of certain powers and functions under the Regulatory Powers Act

Scope of this section

(1) This section applies in relation to powers (***relevant powers***) and functions (***relevant functions***) under the following provisions of the Regulatory Powers Act (as it applies in relation to this Act):

(a) Part 2 (monitoring powers);

(b) Part 3 (investigation powers);

(c) Part 6 (enforceable undertakings).

Note: Sections 99 and 100 deal with the delegation of powers and functions under Part 4 (civil penalty provisions) and Part 5 (infringement notices) of the Regulatory Powers Act (as it applies in relation to this Act).

Delegations by Treasurer

(2) The Treasurer may, in writing, delegate a relevant power or relevant function of the Treasurer to any of the following:

(a) the Secretary;

(b) an SES employee, or acting SES employee, in the Department;

(c) the Commissioner of Taxation.

Note: For the effect of a delegation to the Commissioner of Taxation, see section 138.

Delegations by Secretary

(3) The Secretary may, in writing, delegate a relevant power or relevant function of the Secretary to any of the following:

(a) an SES employee, or acting SES employee, in the Department;

(b) the Commissioner of Taxation.

Note: For the effect of a delegation to the Commissioner of Taxation, see section 138.

(4) However, subsection (3) does not apply in relation to the powers and functions of the Secretary as an authorised applicant under

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Part 2 or 3 of the Regulatory Powers Act (as it applies in relation to this Act).

Subdelegations by Commissioner of Taxation

(5) If a power or function is delegated to the Commissioner of Taxation under this section, the Commissioner may, in writing, subdelegate the power or function to an SES employee, or acting SES employee, in the Australian Taxation Office.

(6) Sections 34AA, 34AB and 34A of the *Acts Interpretation Act 1901* apply in relation to the subdelegation in a way corresponding to the way in which they apply in relation to a delegation.

Directions

(7) In exercising powers or performing functions delegated or subdelegated by a person under this section, the delegate or subdelegate must comply with any directions of the person.

Delegations in relation to specified kinds of matters

(8) Without limiting this section or subsection 33(3A) of the *Acts Interpretation Act 1901*, a power or function may be delegated or subdelegated generally or only in relation to specified kinds of matters.

41 After section 115D

Insert:

115DA Vacancy fee liability—false or misleading vacancy fee return

(1) A person who gives a vacancy fee return to the Commissioner of Taxation for the purposes of subsection 115D(1) must ensure that the return does not contain information that is false or misleading in a material particular.

Civil penalty: 250 penalty units.

(2) To avoid doubt, for the purposes of subsection (1), information or documents may be false or misleading in a material particular because of the omission of a matter or thing.

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42 After subparagraph 115K(2)(b)(i)

Insert:

(ia) subsection 115DA(1) (vacancy fee liability—false or misleading vacancy fee return);

43 Subsection 119(1) (penalty)

Repeal the penalty, substitute:

Penalty: 250 penalty units.

44 Subsection 133(5) (penalty)

Repeal the penalty, substitute:

Penalty: Imprisonment for 6 months or 250 penalty units, or both.

45 After paragraph 135(3)(b)

Insert:

(ba) a notification for the purposes of paragraph 101(1)(b); and

(bb) a notification for the purposes of subsection 98C(2), 98D(2) or 98E(3) (notices after no objection notification or exemption certificate); and

46 At the end of section 137

Add:

Powers and functions under the Regulatory Powers Act

(8) This section does not apply in relation to a power or function that a person has under the Regulatory Powers Act (as it applies in relation to this Act).

Note: Powers and functions of this kind may be delegated under sections 99, 100 and 101F.

47 Subsection 138(1) (heading)

Repeal the heading, substitute:

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Powers of Commissioner of Taxation as a result of delegation under section 137

48 After subsection 138(3)

Insert:

Powers of Commissioner of Taxation as a result of delegation under section 101F

(3A) Subsections (1) to (3) apply in relation to a delegation to the Commissioner of Taxation under section 101F in the same way as they apply in relation to a delegation to the Commissioner under section 137.

Note: Section 101F allows for the delegation to the Commissioner of certain powers and functions under the Regulatory Powers Act (as it applies in relation to this Act).

(3B) However, for the purposes of applying subsection (2) in relation to a delegation to the Commissioner of Taxation under section 101F, treat that subsection as including the following paragraph:

(da) sections 353-10 and 353-15 (powers to obtain information and evidence and access premises);

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Part 2—Application provisions

Division 1—General

49 Application—false or misleading information and documents and section 98B

Section 98B of the *Foreign Acquisitions and Takeovers Act 1975*, as inserted by this Schedule, applies in relation to information or documents given to the Treasurer on or after 1 January 2021.

50 Application—failure to notify and sections 98C, 98D and 98E

Sections 98C, 98D and 98E of the *Foreign Acquisitions and Takeovers Act 1975*, as inserted by this Schedule, apply in relation to no objection notifications and exemption certificates given on or after 1 January 2021.

51 Application—penalties

The following apply in relation to contraventions that occur on or after 1 January 2021:

(a) the amendments made by this Schedule to sections 84, 85, 86, 87, 88, 89, 92, 93, 94, 119 and 133 of the *Foreign Acquisitions and Takeovers Act 1975*;

(b) section 98F of that Act, as inserted by this Schedule.

52 Application—infringement notices

The following apply in relation to contraventions that occur on or after 1 January 2021:

(a) the amendments made by this Schedule to sections 100 and 101 of the *Foreign Acquisitions and Takeovers Act 1975*;

(b) section 101AA of that Act, as inserted by this Schedule.

53 Application—vacancy fee liability—false or misleading vacancy fee return

Section 115DA of the *Foreign Acquisitions and Takeovers Act 1975*, as inserted by this Schedule, applies in relation to returns given on or after 1 January 2021.

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Division 2—Application of Regulatory Powers (Standard Provisions) Act 2014

54 Definitions

In this Division:

Act means the *Foreign Acquisitions and Takeovers Act 1975*.

amended Act means the Act as in force immediately after the commencement time.

commencement time means the start of 1 January 2021.

55 Application—monitoring powers

Part 2 of the *Regulatory Powers (Standard Provisions) Act 2014*, as that Part applies under the amended Act, applies in relation to the following:

(a) determining whether a provision mentioned in subsection 101A(1) of the amended Act has been complied with before, at or after the commencement time;

(b) determining whether information given in compliance, or purported compliance, with the Act before, at or after the commencement time is correct.

56 Application—investigation powers

Part 3 of the *Regulatory Powers (Standard Provisions) Act 2014*, as that Part applies under the amended Act, applies in relation to a contravention, or suspected contravention, of a provision mentioned in subsection 101B(1) of the amended Act that occurs before, at or after the commencement time.

57 Application—enforceable undertakings

Part 6 of the *Regulatory Powers (Standard Provisions) Act 2014*, as that Part applies under the amended Act, applies in relation to undertakings given at or after the commencement time.

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Part 3—Contingent amendments

Foreign Acquisitions and Takeovers Act 1975

58 Subparagraph 101A(6)(a)(iii)

Omit "Federal Circuit Court of Australia", substitute "Federal Circuit and Family Court of Australia (Division 2)".

59 Paragraph 101A(8)(b)

Omit "Federal Circuit Court of Australia", substitute "Federal Circuit and Family Court of Australia (Division 2)".

60 Subparagraph 101B(5)(a)(iii)

Omit "Federal Circuit Court of Australia", substitute "Federal Circuit and Family Court of Australia (Division 2)".

61 Paragraph 101B(7)(b)

Omit "Federal Circuit Court of Australia", substitute "Federal Circuit and Family Court of Australia (Division 2)".

62 Paragraph 101C(3)(b)

Omit "Federal Circuit Court of Australia", substitute "Federal Circuit and Family Court of Australia (Division 2)".

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Schedule 3—Register of Foreign Ownership of Australian Assets

Part 1—Amendments

Foreign Acquisitions and Takeovers Act 1975

1 At the end of section 3

Add:

> The Register of Foreign Ownership of Australian Assets is kept under Part 7A.
>
> The Register records certain actions relating to interests acquired, held or disposed of by foreign persons. A foreign person who takes such an action (which may or may not be a significant action or a notifiable action, or otherwise covered by this Act) must give a register notice to the Registrar. In some circumstances, other people must also give notices to the Register. A civil penalty applies to a failure to give a notice under Part 7A.

2 Section 4

Insert:

Australian water access entitlement means a perpetual or ongoing entitlement, by or under a law of a State or Territory, to exclusive access to a share of the water resources of an area in the State or Territory.

contractual water right of a person means a right that the person holds (alone or jointly) under a contract or a deed to all or part of another person's:

(a) registrable water entitlement; or
(b) water allocation; or
(c) right of a kind specified in the regulations.

data standards means standards determined by the Registrar under section 130ZZ.

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eligible Registrar appointee means:

(a) an Agency (within the meaning of the *Public Service Act 1999*); or

(b) a body, whether incorporated or not, established for a public purpose by or under a law of the Commonwealth; or

(c) a person:

(i) holding or performing the duties of an office established by or under a law of the Commonwealth; or

(ii) holding an appointment made under a law of the Commonwealth.

exploration tenement means any of the following:

(a) a right (however described) under a law of the Commonwealth, a State or a Territory to recover minerals (such as coal or ore), oil or gas in Australia or from the seabed or subsoil of the offshore area for the purposes of prospecting or exploring for minerals, oil or gas;

(b) a right that preserves a right mentioned in paragraph (a);

(c) a lease under which the lessee has a right mentioned in paragraph (a) or (b);

(d) an interest in a right mentioned in paragraph (a) or (b) or under a lease mentioned in paragraph (c).

Register means the Register of Foreign Ownership of Australian Assets kept under section 130S.

Register commencement day has the meaning given by section 130Q.

registered circumstance, in relation to a person, means a registered circumstance that exists in relation to the person under a provision of Division 3 of Part 7A (including regulations made for the purposes of subsection 130ZU(1)).

register notice means a notice that a person gives or is required to give to the Registrar under a provision of Division 3 of Part 7A (including regulations made for the purposes of subsection 130ZU(1)).

registrable event day:

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(a) in relation to a register notice required to be given under a provision of Division 3 of Part 7A (other than subsection 130ZU(2))—means the day specified by the provision as the registrable event day for the notice; and

(b) in relation to a register notice required to be given under subsection 130ZU(2)—has the meaning given by regulations made for the purposes of subsection 130ZU(1).

Note: This definition is affected by section 130X (interests acquired by entering agreements etc.).

registrable water entitlement has the meaning given by section 26A.

registrable water interest means:

(a) a registrable water entitlement; or

(b) a contractual water right of a person under a contract or deed whose term (including any extension or renewal) after the person starts to hold the right is reasonably likely to exceed 5 years.

Registrar means the eligible Registrar appointee appointed under section 130R.

water allocation means the specific volume of water allocated to an Australian water access entitlement in a given period.

water resource means:

(a) surface water or ground water; or

(b) a watercourse, lake, wetland or aquifer (whether or not it currently has water in it).

An expression used in this definition that is also used in the *Water Act 2007* has the same meaning as in that Act.

3 After section 26

Insert:

26A Meaning of *registrable water entitlement*

(1) A ***registrable water entitlement*** of a person is any of the following rights that the person holds (alone or jointly):

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(a) an irrigation right (within the meaning of the *Water Act 2007*) that relates to a water resource in Australia;
(b) a right (including an Australian water access entitlement) conferred by or under a law of a State or Territory to do either or both of the following:
(i) to hold water from a water resource in Australia;
(ii) to take water from a water resource in Australia.

(2) However, a ***registrable water entitlement*** does not include:
(a) stock and domestic rights; or
(b) riparian rights; or
(c) water allocations; or
(d) a right of a kind specified in the regulations.

4 Section 116

Omit:

(c) certain disposals of interests in residential land.

substitute:

(c) certain disposals of interests in residential land; and (d) register notices.

5 At the end of subsection 117(1)

Add:

; (e) any register notice that the person is required to give to the Registrar.

6 At the end of section 118

Add:

; (d) for paragraph 117(1)(e)—5 years after the register notice is given to the Registrar.

7 After section 126

Insert:

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126A Authorisation of disclosure by Registrar of information in the Register

The Registrar may disclose information included in the Register in accordance with section 130V.

8 After Part 7

Insert:

Part 7A—The Register of Foreign Ownership of Australian Assets

Division 1—Simplified outline of this Part

130P Simplified outline of this Part

The Register of Foreign Ownership of Australian Assets records certain actions relating to interests in land, water, entities, businesses and other assets in Australia.

The Register is kept by the Registrar, which is a body or person appointed by the Treasurer.

Generally, a foreign person who acquires or disposes of such an interest must give a register notice to the Registrar. The register notice may result in there being a registered circumstance in relation to the person, and the person may be required to give further register notices in relation to the registered circumstance.

For example, a person may be required to give a further register notice in relation to a registered circumstance if the nature of the interest that gave rise to the registered circumstance changes, or if the registered circumstance ceases. The events that result in a registered circumstance ceasing are set out in this Part.

No fee is payable for giving a register notice under this Part.

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The Register will be required to be kept, and the notice requirements will begin to apply, on the Register commencement day.

A civil penalty applies to a failure to give a notice as required by this Part.

Division 2—The Register of Foreign Ownership of Australian Assets

130Q Register commencement day

The following apply on and after the day (the ***Register commencement day***) that Part 2 of Schedule 3 to the *Foreign Investment Reform (Protecting Australia's National Security) Act 2020* commences:

(a) the Registrar's obligation under section 130S to keep the Register;

(b) a requirement for a person to give a register notice to the Registrar.

Note: In some cases, a register notice must be given (on or after the Register commencement day) in relation to an event or situation that occurred before that day. See the provisions of Division 3 for more detailed rules about the application of notice requirements.

130R Appointment of the Registrar

The Treasurer may, by notifiable instrument, appoint an eligible Registrar appointee to be the Registrar.

130S Registrar must keep Register

The Registrar must keep a Register of Foreign Ownership of Australian Assets (the ***Register***).

130T Information to be contained in the Register

The Register must contain:

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(a) all the information obtained by the Registrar under Division 3; and
(b) any information added under section 130U; and
(c) any corrections or updates of information described in paragraph (a) or (b) that are made under the data standards.

130U Registrar may add information to the Register

The Registrar may add to the Register any information obtained by the Registrar (other than information obtained under Division 3) relating to:

(a) information obtained by the Registrar under Division 3; or
(b) a registered circumstance (including a registered circumstance that has ceased); or
(c) information obtained by the Registrar under Part 4 of Schedule 3 to the *Foreign Investment Reform (Protecting Australia's National Security) Act 2020*.

Note: Information obtained under Division 3 must be included in the Register under section 130T.

130V Registrar may disclose information in the Register in certain circumstances

(1) The Registrar may disclose information included in the Register to the following persons for the purpose of those persons performing functions or duties, or exercising powers, under this Act:
(a) the Treasurer;
(b) the Secretary;
(c) the Commissioner of Taxation;
(d) a person engaged under the *Public Service Act 1999* who is employed in the Department or the Australian Taxation Office;
(e) a person appointed by the Commonwealth for the purposes of this Act.

(2) The Registrar may disclose information included in the Register to a person in accordance with data standards made for the purposes of:

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(a) paragraph 130ZZ(2)(f) (making information available to person who gave register notice, or to whom registered circumstance relates); or

(b) paragraph 130ZZ(2)(g) (making information available to executor, administrator or liquidator).

(3) This section does not limit the circumstances in which a person is authorised to disclose information under Division 3 of Part 7.

130W Giving notice to Registrar

(1) This section applies if a person is required to give a register notice to the Registrar.

(2) The person must give the notice:

(a) in accordance with the data standards; and

(b) before the end of 30 days after the registrable event day for the notice (or a longer period under section 130Z).

(3) If:

(a) a person gives a register notice to the Registrar; and

(b) the giving of the notice would (but for this subsection) result in a registered circumstance existing in relation to the person; and

(c) the registered circumstance would have ceased before the notice was given;

the registered circumstance does not exist in relation to the person (and does not cease).

Note: The data standards may require the register notice to include information relating to an event that results in a registered circumstance not existing under this subsection.

(4) If:

(a) a person gives a register notice to the Registrar; and

(b) at the time the person gives the register notice, the person is not a foreign person;

no registered circumstance exists in relation to the person as a result of the register notice.

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Note: The data standards may require the register notice to include information about whether the person is a foreign person at the time the notice is given.

(5) The provisions of Division 3 (including any regulations made for the purposes of subsection 130ZU(1)) do not limit each other, and:

(a) notice of a single event may need to be given under more than one provision or by more than one person; and

(b) a single event may result in registered circumstances existing under more than one provision.

Note: However, the data standards may provide for register notices under multiple provisions to be given in a single notice (see paragraph 130ZZ(2)(j)).

130X Interests acquired by entering agreements etc.

(1) For the purpose of working out a registrable event day for a register notice, disregard:

(a) section 15 (interests acquired by entering agreements or acquiring options); and

(b) paragraph 19A(1)(b) (offer to acquire interests in assets of business); and

(c) paragraph 20(1)(b) (offer to acquire securities or rights in entity).

(2) Subsection (1) does not apply for the purposes of working out whether a person is required to give a register notice.

(3) However, if subsection (1) results in there being no registrable event day for a particular register notice that a person would otherwise be required to give to the Registrar, the person is not required to give the notice.

(4) The regulations may provide that this section does not apply to a specified register notice prescribed by regulations made for the purposes of subsection 130ZU(1).

130Y Agents may give notice

(1) A person (the ***first person***) required to give a register notice to the Registrar is taken to have complied with the requirement if

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someone else gives the register notice, in accordance with that provision, on the person's behalf.

(2) For the purposes of this Act, the notice is taken to have been given by the first person.

130Z Regulations may extend time for giving notice

(1) The regulations may make provision for and in relation to extending the period in paragraph 130W(2)(b) in which a register notice must be given to the Registrar.

(2) Without limiting subsection (1), regulations made for the purposes of that subsection may do any of the following:

(a) provide for extensions that apply only if conditions are met, and provide for the Treasurer to impose such conditions generally, or in particular cases;

(b) provide for extensions that apply to specified persons;

(c) confer a power to make a decision of an administrative character on the Treasurer;

(d) confer a power on the Treasurer to make a legislative instrument providing for anything that may, under this section (other than this paragraph), be provided for by the regulations.

Division 3—Requirements to give register notices to the Registrar

Subdivision A—Requirements relating to interests in land

130ZA Foreign person acquires interest in Australian land

(1) A foreign person must give a register notice to the Registrar if the foreign person acquires:

(a) an interest (other than an equitable interest) in Australian land; or

(b) without limiting paragraph (a)—an equitable interest in Australian land of a kind referred to in paragraph 12(1)(c) (interest in lease or licence with term likely to exceed 5 years), if the Australian land is agricultural land.

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(2) If a foreign person gives a register notice under this section, a registered circumstance under this section exists in relation to the foreign person.

(3) The registered circumstance ceases if the foreign person ceases to hold the interest.

(4) The registrable event day for a register notice under this section is the day on which the foreign person acquires the interest.

Application—Register commencement day

(5) This section does not apply to an acquisition that occurs before the Register commencement day.

130ZB Foreign person acquires interest in exploration tenement

(1) A foreign person must give a register notice to the Registrar if the foreign person acquires an interest (other than an equitable interest) in an exploration tenement.

(2) If a foreign person gives a register notice under this section, a registered circumstance under this section exists in relation to the foreign person.

(3) The registered circumstance ceases if the foreign person ceases to hold the interest.

(4) The registrable event day for a register notice under this section is the day on which the foreign person acquires the interest.

(5) In this section, ***interest***:

(a) has the same meaning in relation to an exploration tenement as it has in relation to Australian land; and

(b) also includes anything prescribed by the regulations.

Note: For the meaning of ***interest*** in relation to Australian land, see section 12. For other rules relating to interests in Australian land, see sections 13 and 14.

Application—Register commencement day

(6) This section does not apply to an acquisition that occurs before the Register commencement day.

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130ZC Person becomes a foreign person while holding interest in land

(1) A person must give a register notice to the Registrar if:
  (a) the person becomes a foreign person; and
  (b) the person holds any of the following interests:
    (i) an interest (other than an equitable interest) in Australian land;
    (ii) without limiting subparagraph (i)—an equitable interest in Australian land of a kind referred to in paragraph 12(1)(c), if the Australian land is agricultural land;
    (iii) an interest (within the meaning of section 130ZB) in an exploration tenement.

(2) If a foreign person gives a register notice under this section, a registered circumstance under this section exists in relation to the foreign person.

(3) The registered circumstance ceases if the foreign person ceases to hold the interest.

(4) The registrable event day for a register notice under this section is the day on which the person becomes a foreign person.

Application—Register commencement day

(5) This section applies to a person who becomes a foreign person on or after the Register commencement day, regardless of when the person began to hold the interest referred to in paragraph (1)(b).

130ZD Change in nature of interest in land

(1) A foreign person must give a register notice to the Registrar if:
  (a) a registered circumstance exists in relation to the person (including a registered circumstance affected by a previous application of this section); and
  (b) the Register records the registered circumstance as relating to the person holding any of the following kinds of interest:
    (i) an interest in residential land;

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(ii) an interest in commercial land;
(iii) an interest in agricultural land;
(iv) an interest in a mining or production tenement;
(v) an interest (within the meaning of section 130ZB) in an exploration tenement; and

(c) while the registered circumstance exists, the interest becomes an interest (the ***new interest***) of a kind mentioned in another subparagraph of paragraph (b); and

(d) the foreign person is aware, or ought reasonably to have become aware, of the change mentioned in paragraph (c).

Note: A registered circumstance may exist only on or after the Register commencement day.

(2) If a foreign person gives a register notice under this section, the registered circumstance becomes a registered circumstance under this section (without ceasing).

(3) The registered circumstance ceases if the foreign person ceases to hold the new interest.

(4) The registrable event day for a register notice under this section is the first day on which the person is aware, or ought reasonably to have become aware, of the change mentioned in paragraph (1)(c).

Subdivision B—Requirements relating to registrable water interests

130ZE Foreign person acquires registrable water interest

(1) A foreign person must give a register notice to the Registrar if:
(a) the foreign person acquires a registrable water interest during a financial year; and
(b) the foreign person holds the interest at the end of the last day of the financial year.

(2) If a foreign person gives a register notice under this section, a registered circumstance under this section exists in relation to the foreign person.

(3) The registered circumstance ceases if the foreign person ceases to hold the interest.

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(4) The registrable event day for a register notice under this section is the last day of the financial year.

Application—Register commencement day

(5) This section applies to the acquisition of a registrable water interest at any time in the financial year in which the Register commencement day occurs (including before the Register commencement day), or a later financial year.

130ZF Person becomes a foreign person while holding registrable water interest

(1) A person must give a register notice to the Registrar if:
  (a) the person becomes a foreign person during a financial year; and
  (b) at the end of the last day of that financial year:
    (i) the person is a foreign person; and
    (ii) the person holds a registrable water interest.

(2) If a foreign person gives a register notice under this section, a registered circumstance under this section exists in relation to the foreign person.

(3) The registered circumstance ceases if the foreign person ceases to hold the interest.

(4) The registrable event day for a register notice under this section is the last day of the financial year in which the person becomes a foreign person.

Application—Register commencement day

(5) This section applies to a person who becomes a foreign person at any time in the financial year in which the Register commencement day occurs (including before the Register commencement day), or a later financial year, regardless of when the person began to hold the interest referred to in subparagraph (1)(b)(ii).

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130ZG Change to certain characteristics of a registrable water interest

(1) A foreign person must give a register notice to the Registrar if:
  (a) on any day or days in a financial year, there is a registered circumstance in relation to the person under section 130ZE or 130ZF that relates to a registrable water interest; and
  (b) on that day or any of those days, the volume of water or the share of a water resource referred to in the registrable water interest changes; and
  (c) the person holds the registrable water interest at the end of the last day of the financial year.

Note: A registered circumstance may exist only on or after the Register commencement day.

(2) The registrable event day for a register notice under this section is the last day of the financial year.

Subdivision C—Requirements relating to interests in businesses or entities

130ZH Foreign person takes action that is a significant action under section 40—entities

(1) A foreign person must give a register notice to the Registrar if:
  (a) the foreign person takes an action that is a significant action under section 40, and:
    (i) a no objection notification or a notice imposing conditions has been given in relation to the action, and has not been revoked; or
    (ii) before the action was taken, the Treasurer gave the foreign person a notice under subsection 66A(4); or
  (b) the foreign person takes an action that is a significant action under section 40, and:
    (i) before the action was taken, the foreign person gave a notice to the Treasurer stating that the action was proposed to be taken; and
    (ii) if the condition in subsection 40(6) (change in control) was required to be met in order for the action to be a

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significant action—the foreign person is aware, or ought reasonably to be aware, that that condition is met in relation to the action; or

(c) a no objection notification or a notice imposing conditions is given in relation to an action of the foreign person that:

(i) has already been taken; and

(ii) was a significant action under section 40.

Note: This section applies to actions taken on or after the Register commencement day (see subsection (5)).

(2) If a foreign person gives a register notice under this section in relation to an action mentioned in subsection (1), the following table has effect.

When registered circumstances exist and cease

Item	A registered circumstance under this section exists in relation to the foreign person if …	The registered circumstance ceases if …
1	paragraph 40(2)(a) (acquiring direct interest in Australian entity that is an agribusiness) applies to the action.	(a) the foreign person no longer holds an interest of any percentage in the Australian entity referred to in paragraph 40(2)(a); or (b) the Australian entity ceases to be an Australian entity; or (c) the Australian entity ceases to exist.
2	paragraph 40(2)(b) (acquiring interests in securities in entity) applies to the action.	(a) the foreign person no longer holds an interest of any percentage in the entity referred to in paragraph 40(2)(b); or (b) the entity no longer meets the condition in subsection 40(4); or (c) the entity ceases to exist.
3	paragraph 40(2)(c) (issuing securities in entity) applies to the action.	(a) all of the securities mentioned in paragraph 40(2)(c) cease to exist; or (b) the entity mentioned in that paragraph no longer meets the condition in subsection 40(4); or (c) the entity ceases to exist.
4	paragraph 40(2)(d) (entering	(a) the agreement mentioned in

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When registered circumstances exist and cease		
Item	**A registered circumstance under this section exists in relation to the foreign person if …**	**The registered circumstance ceases if …**
	into agreement relating to affairs of entity) applies to the action.	paragraph 40(2)(d) ceases to be in force; or (b) the foreign person ceases to be a party to the agreement; or (c) the agreement ceases to result in the obligation mentioned in subparagraph 40(2)(d)(ii); or (d) the entity mentioned in paragraph 40(2)(d) no longer meets the condition in subsection 40(4); or (e) the entity ceases to exist.
5	paragraph 40(2)(e) (altering constituent documents of entity) applies to the action.	(a) the document mentioned in paragraph 40(2)(e) ceases to be in force; or (b) the document ceases to produce the result mentioned in that paragraph; or (c) the entity mentioned in that paragraph no longer meets the condition in subsection 40(4); or (d) the entity ceases to exist.

(3) Disregard any interest that is an equitable interest for the purposes of working out whether a registered circumstance exists, or has ceased, under item 1 or 2 of the table in subsection (2).

Note: The requirement to give a register notice under subsection (1) applies whether or not an interest is an equitable interest. However, a notice of an action that relates only to an equitable interest does not cause a registered circumstance to exist under item 1 or 2 of the table.

Registrable event day

(4) The registrable event day for a register notice under this section is the earliest of the days in any of the following paragraphs that apply in relation to the notice:

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(a) if paragraph (1)(a) applies—the day on which the foreign person takes the action;

(b) if paragraph (1)(b) applies, and the condition in subsection 40(6) (change in control) was required to be met in order for the action to be a significant action—the later of:

(i) the day on which the foreign person takes the action; and

(ii) the day on which the foreign person first becomes aware, or ought reasonably to become aware, that the condition in subsection 40(6) is met in relation to the action;

(c) if paragraph (1)(b) applies, and the condition in subsection 40(6) (change in control) was not required to be met in order for the action to be a significant action—the day on which the foreign person takes the action;

(d) if paragraph (1)(c) applies—the day on which the no objection notification or notice imposing conditions is given.

Application—Register commencement day

(5) This section applies to actions taken on or after the Register commencement day (regardless of when any notification or notice, other than the register notice, mentioned in subsection (1) is given).

130ZI Foreign person takes action that is a significant action under section 41—businesses

(1) A foreign person must give a notice to the Registrar if:

(a) the foreign person takes an action that is a significant action under section 41, and:

(i) a no objection notification or a notice imposing conditions has been given in relation to the action, and has not been revoked; or

(ii) before the action was taken, the Treasurer gave the foreign person a notice under subsection 66A(4); or

(b) the foreign person takes an action that is a significant action under section 41, and:

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(i) before the action was taken, the foreign person gave a notice to the Treasurer stating that the action was proposed to be taken; and

(ii) if the condition in subsection 41(5) (change in control) was required to be met in order for the action to be a significant action—the foreign person is aware, or ought reasonably to be aware, that that condition is met in relation to the action; or

(c) a no objection notification or a notice imposing conditions is given in relation to an action of the foreign person that:

(i) has already been taken; and

(ii) was a significant action under section 41.

Note: This section applies to actions taken on or after the Register commencement day (see subsection (5)).

(2) If a foreign person gives a register notice under this section in relation to an action mentioned in subsection (1), the following table has effect.

When registered circumstances exist and cease

Item	A registered circumstance under this section exists in relation to the foreign person if …	The registered circumstance ceases if …
1	paragraph 41(2)(a) (acquiring direct interest in Australian business that is an agribusiness) applies to the action.	(a) the foreign person no longer holds an interest of any percentage in the Australian business referred to in paragraph 41(2)(a); or (b) the Australian business ceases to be an Australian business; or (c) the Australian business ceases to be carried on.
2	paragraph 41(2)(b) (acquiring interests in assets of Australian business) applies to the action.	(a) the foreign person no longer holds an interest of any percentage in the Australian business referred to in paragraph 41(2)(b); or (b) the Australian business ceases to be an Australian business; or (c) the Australian business ceases to be

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When registered circumstances exist and cease		
Item	**A registered circumstance under this section exists in relation to the foreign person if …**	**The registered circumstance ceases if …**
		carried on.
3	paragraph 41(2)(c) (entering or terminating significant agreement with Australian business) applies to the action, and the action consists of the foreign person entering a significant agreement mentioned in that paragraph.	(a) the agreement mentioned in paragraph 41(2)(c) ceases to be in force; or (b) the agreement ceases to be a significant agreement; or (c) the foreign person ceases to be a party to the agreement; or (d) the Australian business referred to in that paragraph ceases to be an Australian business; or (e) the Australian business ceases to be carried on.

(3) Disregard any interest that is an equitable interest for the purposes of working out whether a registered circumstance exists, or has ceased, under item 1 or 2 of the table in subsection (2).

Note: The requirement to give a register notice under subsection (1) applies whether or not an interest is an equitable interest. However, a notice of an action that relates only to an equitable interest does not cause a registered circumstance to exist under item 1 or 2 of the table.

Registrable event day

(4) The registrable event day for a notice under this section is the earliest of the days in any of the following paragraphs that apply in relation to the notice:

(a) if paragraph (1)(a) applies—the day on which the foreign person takes the action;

(b) if paragraph (1)(b) applies, and the condition in subsection 41(5) (change in control) was required to be met in order for the action to be a significant action—the later of:

(i) the day on which the foreign person takes the action; and

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(ii) the day on which the foreign person first becomes aware, or ought reasonably to become aware, that the condition in subsection 41(5) (change in control) is met in relation to the action;

(c) if paragraph (1)(b) applies, and the condition in subsection 41(5) (change in control) was not required to be met in order for the action to be a significant action—the day on which the foreign person takes the action;

(d) if paragraph (1)(c) applies—the day on which the no objection notification or notice imposing conditions is given.

Application—Register commencement day

(5) This section applies to actions taken on or after the Register commencement day (regardless of when any notification or notice, other than the register notice, mentioned in subsection (1) is given).

130ZJ Foreign person takes action that is a notifiable action under section 47—entities and businesses

(1) A foreign person must give a register notice to the Registrar if the foreign person takes an action:

(a) that is a notifiable action under section 47; and

(b) to which paragraph 47(2)(a) (acquiring direct interest in Australian entity or business that is an agribusiness) or (b) (acquiring substantial interest in Australian entity) applies.

Note: This section applies to actions taken on or after the Register commencement day (see subsection (5)).

(2) If a foreign person gives a register notice under this section in relation to an action mentioned in subsection (1), the following table has effect.

When registered circumstances exist and cease		
Item	**A registered circumstance under this section exists in relation to the foreign person if …**	**The registered circumstance ceases if …**
1	subparagraph 47(2)(a)(i) (acquiring direct interest in	(a) the foreign person no longer holds an interest of any percentage in the

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When registered circumstances exist and cease		
Item	**A registered circumstance under this section exists in relation to the foreign person if …**	**The registered circumstance ceases if …**
	Australian entity that is an agribusiness) applies to the action.	Australian entity mentioned in subparagraph 47(2)(a)(i); or (b) the Australian entity ceases to be an Australian entity; or (c) the Australian entity ceases to exist.
2	subparagraph 47(2)(a)(ii) (acquiring direct interest in Australian business that is an agribusiness) applies to the action.	(a) the foreign person no longer holds an interest of any percentage in the Australian business referred to in subparagraph 47(2)(a)(ii); or (b) the Australian business ceases to be an Australian business; or (c) the Australian business ceases to be carried on.
3	paragraph 47(2)(b) (acquiring substantial interest in Australian entity) applies to the action.	(a) the foreign person no longer holds an interest of any percentage in the Australian entity mentioned in paragraph 47(2)(b); or (b) the Australian entity ceases to be an Australian entity; or (c) the Australian entity ceases to exist.

(3) Disregard any interest that is an equitable interest for the purposes of working out whether a registered circumstance exists, or has ceased, under an item of the table in subsection (2).

Note: The requirement to give a register notice under subsection (1) applies whether or not an interest is an equitable interest. However, a notice of an action that relates only to an equitable interest does not cause a registered circumstance to exist under an item of the table.

(4) The registrable event day for a register notice under this section is the day on which the foreign person takes the notifiable action.

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Application—Register commencement day

(5) This section applies to actions taken on or after the Register commencement day.

130ZK Foreign person takes action that is a notifiable national security action under section 55B

(1) A foreign person must give a register notice to the Registrar if the foreign person takes an action:

(a) that is a notifiable national security action under section 55B; and

(b) to which paragraph 55B(1)(a), (b) or (c) applies.

Note: This section applies to actions taken on or after the Register commencement day (see subsection (5)).

(2) If a foreign person gives a register notice under this section in relation to an action mentioned in subsection (1), the following table has effect.

When registered circumstances exist and cease

Item	A registered circumstance under this section exists in relation to the foreign person if …	The registered circumstance ceases if …
1	paragraph 55B(1)(a) (starting national security business) applies to the action.	(a) the foreign person no longer carries on the national security business mentioned in paragraph 55B(1)(a); or (b) the business is neither a national security business nor an Australian business; or (c) the business ceases to be carried on.
2	paragraph 55B(1)(b) (acquiring direct interest in national security business) applies to the action.	(a) the foreign person no longer holds an interest of any percentage in the business mentioned in paragraph 55B(1)(b); or (b) the business is neither a national security business nor an Australian business; or (c) the business ceases to be carried on.

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When registered circumstances exist and cease		
Item	**A registered circumstance under this section exists in relation to the foreign person if …**	**The registered circumstance ceases if …**
3	paragraph 55B(1)(c) (acquiring direct interest in entity that carries on national security business) applies to the action.	(a) the foreign person no longer holds an interest of any percentage in the entity referred to in paragraph 55B(1)(c); or (b) the entity no longer carries on any business; or (c) the business carried on by the entity is neither a national security business nor an Australian business; or (d) the entity ceases to exist.

(3) Disregard any interest that is an equitable interest for the purposes of working out whether a registered circumstance exists, or has ceased, under item 2 or 3 of the table in subsection (2).

Note: The requirement to give a register notice under subsection (1) applies whether or not an interest is an equitable interest. However, a notice of an action that relates only to an equitable interest does not cause a registered circumstance to exist under item 2 or 3 of the table.

Registrable event day

(4) The registrable event day for a register notice under this section is the day on which the foreign person takes the notifiable national security action.

Application—Register commencement day

(5) This section applies to actions taken on or after the Register commencement day.

130ZL Foreign person takes action that is a reviewable national security action under section 55D—entities

(1) A foreign person must give a register notice to the Registrar if:
(a) the foreign person takes an action that is a reviewable national security action under section 55D, and:

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(i) a no objection notification or a notice imposing conditions has been given in relation to the action, and has not been revoked; or

(ii) before the action was taken, the foreign person gave a notice to the Treasurer stating that the action was proposed to be taken; or

(iii) before the action was taken, the Treasurer gave the foreign person a notice under subsection 66A(4); or

(b) a no objection notification or a notice imposing conditions is given in relation to an action of the foreign person that:

(i) has already been taken; and

(ii) was a reviewable national security action under section 55D.

Note: This section applies to actions taken on or after the Register commencement day (see subsection (5)).

(2) If a foreign person gives a register notice under this section in relation to an action mentioned in subsection (1), the following table has effect.

When registered circumstances exist and cease

Item	A registered circumstance under this section exists in relation to the foreign person if …	The registered circumstance ceases if …
1	subsection 55D(1) (acquiring interest in entity) applies to the action.	(a) the foreign person no longer holds an interest of any percentage in the entity mentioned in subsection 55D(1); or (b) the entity ceases to be a kind of entity described in subsection 55D(3); or (c) the entity ceases to exist.
2	subparagraph 55D(2)(a)(i) (issuing securities in entity) applies to the action.	(a) all of the securities mentioned in subparagraph 55D(2)(a)(i) cease to exist; or (b) the entity mentioned in that subparagraph ceases to be a kind of entity described in subsection 55D(4); or (c) the entity ceases to exist.

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When registered circumstances exist and cease		
Item	**A registered circumstance under this section exists in relation to the foreign person if …**	**The registered circumstance ceases if …**
3	subparagraph 55D(2)(a)(ii) (entering into agreement relating to affairs of entity) applies to the action.	(a) the agreement mentioned in subparagraph 55D(2)(a)(ii) ceases to be in force; or (b) the foreign person ceases to be a party to the agreement; or (c) the agreement ceases to result in the obligation mentioned in that subparagraph; or (d) the entity mentioned in that subparagraph ceases to be a kind of entity described in subsection 55D(4); or (e) the entity ceases to exist.
4	subparagraph 55D(2)(a)(iii) (altering constituent documents of entity) applies to the action.	(a) the document mentioned in subparagraph 55D(2)(a)(iii) ceases to be in force; or (b) the document ceases to produce the result mentioned in that subparagraph; or (c) the entity mentioned in that subparagraph ceases to be a kind of entity described in subsection 55D(4); or (d) the entity ceases to exist.

(3) Disregard any interest that is an equitable interest for the purposes of working out whether a registered circumstance exists, or has ceased, under item 1 of the table in subsection (2).

Note: The requirement to give a register notice under subsection (1) applies whether or not an interest is an equitable interest. However, a notice of an action that relates only to an equitable interest does not cause a registered circumstance to exist under item 1 of the table.

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Registrable event day

(4) The registrable event day for a register notice under this section is:
  (a) if paragraph (1)(a) applies—the day on which the foreign person takes the action; or
  (b) if paragraph (1)(b) applies—the day on which the no objection notification or notice imposing conditions is given.

Application—Register commencement day

(5) This section applies to actions taken on or after the Register commencement day (regardless of when any notification or notice, other than the register notice, mentioned in subsection (1) is given).

130ZM Foreign person takes action that is a reviewable national security action under section 55E—businesses

(1) A foreign person must give a register notice to the Registrar if:
  (a) the foreign person takes an action that is a reviewable national security action under section 55E, and:
    (i) a no objection notification or a notice imposing conditions has been given in relation to the action, and has not been revoked; or
    (ii) before the action was taken, the foreign person gave a notice to the Treasurer stating that the action was proposed to be taken; or
    (iii) before the action was taken, the Treasurer gave the foreign person a notice under subsection 66A(4); or
  (b) a no objection notification or a notice imposing conditions is given in relation to an action of the foreign person that:
    (i) has already been taken; and
    (ii) was a reviewable national security action under section 55E.

Note: This section applies to actions taken on or after the Register commencement day (see subsection (5)).

(2) If a foreign person gives a register notice under this section in relation to an action mentioned in subsection (1), the following table has effect.

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When registered circumstances exist and cease		
Item	**A registered circumstance under this section exists in relation to the foreign person if …**	**The registered circumstance ceases if …**
1	subparagraph 55E(1)(a)(i) (acquiring interest in Australian business) applies to the action.	(a) the foreign person no longer holds an interest of any percentage in the Australian business mentioned in subparagraph 55E(1)(a)(i); or (b) the Australian business ceases to be an Australian business; or (c) the Australian business ceases to be carried on.
2	subparagraph 55E(1)(a)(ii) (acquiring interest in assets of Australian business) applies to the action.	(a) the foreign person no longer holds an interest of any percentage in the Australian business mentioned in subparagraph 55E(1)(a)(ii); or (b) the Australian business ceases to be an Australian business; or (c) the Australian business ceases to be carried on.
3	subparagraph 55E(1)(a)(iii) (entering or terminating significant agreement with Australian business) applies to the action, and the action consists of the foreign person entering a significant agreement mentioned in that subparagraph.	(a) the agreement mentioned in subparagraph 55E(1)(a)(iii) ceases to be in force; or (b) the agreement ceases to be a significant agreement; or (c) the foreign person ceases to be a party to the agreement; or (d) the Australian business mentioned in that subparagraph ceases to be an Australian business; or (e) the Australian business ceases to be carried on.
4	subsection 55E(2) (starting Australian business) applies to the action.	(a) the foreign person no longer carries on the Australian business mentioned in subsection 55E(2); or (b) the Australian business ceases to be an Australian business; or (c) the Australian business ceases to be carried on.

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(3) Disregard any interest that is an equitable interest for the purposes of working out whether a registered circumstance exists, or has ceased, under item 1 or 2 of the table in subsection (2).

Note: The requirement to give a register notice under subsection (1) applies whether or not an interest is an equitable interest. However, a notice of an action that relates only to an equitable interest does not cause a registered circumstance to exist under item 1 or 2 of the table.

Registrable event day

(4) The registrable event day for a register notice under this section is:
(a) if paragraph (1)(a) applies—the day on which the foreign person takes the action; or
(b) if paragraph (1)(b) applies—the day on which the no objection notification or notice imposing conditions is given.

Application—Register commencement day

(5) This section applies to actions taken on or after the Register commencement day (regardless of when any notification or notice, other than the register notice, mentioned in subsection (1) is given).

130ZN Change in interest in an entity or business

(1) A foreign person must give a register notice to the Registrar if:
(a) there is a registered circumstance in relation to the foreign person under a provision mentioned in subsection (4); and
(b) in relation to that registered circumstance, the Register records the foreign person as holding an interest in an entity or business of a particular percentage; and
(c) the percentage interest that the foreign person holds in the entity or business differs from the percentage mentioned in paragraph (b) by 5% or more; and
(d) the foreign person is aware, or ought reasonably to have become aware, of the difference mentioned in paragraph (1)(c).

Note 1: For example, if the Register records a foreign person as holding a 30% interest in an Australian entity, the person must give notice to the Registrar if the person is aware, or ought reasonably to have become

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aware, that the person's interest in the entity has changed to 35% or more or 25% or less.

Note 2: A registered circumstance may exist only on or after the Register commencement day.

(2) In working out a percentage interest for the purposes of paragraph (1)(c), disregard an equitable interest.

(3) The registrable event day for a register notice under this section is the first day on which the person is aware, or ought reasonably to become aware, of the difference mentioned in paragraph (1)(c).

(4) For the purposes of paragraph (1)(a), the provisions are the following:

(a) item 1 or 2 of the table in subsection 130ZH(2) (significant actions under section 40—entities);

(b) item 1 or 2 of the table in subsection 130ZI(2) (significant actions under section 41—businesses);

(c) item 1, 2 or 3 of the table in subsection 130ZJ(2) (notifiable actions under section 47—entities and businesses);

(d) item 2 or 3 of the table in subsection 130ZK(2) (notifiable national security actions under section 55B);

(e) item 1 of the table in subsection 130ZL(2) (reviewable national security actions under section 55D—entities);

(f) item 1 or 2 of the table in subsection 130ZM(2) (reviewable national security actions under section 55E—businesses);

(g) a provision of regulations made for the purposes of subsection 130ZU(1), if the regulations provide that this section applies to the registered circumstance.

130ZO Person becomes a foreign person while holding interest in an entity or business

(1) This section applies to a person who becomes a foreign person.

(2) The person must give a register notice to the Registrar if:

(a) on the day the person becomes a foreign person, the person holds:

(i) a direct interest in an Australian entity that is an agribusiness; or

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(ii) a direct interest in an Australian business that is an agribusiness; or

(iii) a substantial interest in an Australian entity; and

(b) had the person taken an action consisting of acquiring the interest on the day the person became a foreign person, the action would have been a notifiable action under either of the following:

(i) paragraph 47(2)(a) (acquiring direct interest in Australian entity or business that is an agribusiness);

(ii) paragraph 47(2)(b) (acquiring substantial interest in Australian entity).

(3) Subsections 130ZJ(2) and (3) apply in relation to the notice as if the person had taken the action mentioned in paragraph (2)(b) of this section in the same way as those subsections apply to a notice and an action of that kind under section 130ZJ.

(4) The registrable event day for a register notice under this section is the day on which the person becomes a foreign person.

Application—Register commencement day

(5) This section applies to a person who becomes a foreign person on or after the Register commencement day, regardless of when the person started to hold the interest referred to in paragraph (2)(a).

130ZP Person becomes a foreign person while carrying on or holding interest in a national security business

(1) This section applies to a person who becomes a foreign person.

(2) The person must give a register notice to the Registrar if:

(a) on the day the person becomes a foreign person, the person carries on a national security business; and

(b) had the person taken an action consisting of starting to carry on the national security business on the day the person became a foreign person, the action would have been a notifiable national security action under paragraph 55B(1)(a) (starting national security business).

(3) The person must give a register notice to the Registrar if:

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(a) on the day the person becomes a foreign person, the person holds:
(i) a direct interest in a national security business; or
(ii) a direct interest in an entity that carries on a national security business; and
(b) had the person taken an action consisting of acquiring the interest on the day the person became a foreign person, the action would have been a notifiable national security action under either of the following:
(i) paragraph 55B(1)(b) (acquiring direct interest in national security business);
(ii) paragraph 55B(1)(c) (acquiring direct interest in entity that carries on national security business).

(4) Subsections 130ZK(2) and (3) apply in relation to the notice as if the person had taken the action mentioned in paragraph (2)(b) or (3)(b) of this section in the same way as those subsections apply to a notice and an action of that kind under section 130ZK.

(5) The registrable event day for a register notice under this section is the day on which the person becomes a foreign person.

Application—Register commencement day

(6) This section applies to a person who becomes a foreign person on or after the Register commencement day, regardless of when the person started to carry on the business referred to in paragraph (2)(a) or to hold the interest referred to in paragraph (3)(a).

Subdivision D—Requirements relating to registered circumstances

130ZQ Registered circumstance ceases

(1) A foreign person must give a register notice to the Registrar if:
(a) a registered circumstance that relates to the foreign person ceases; and
(b) the foreign person is aware, or ought reasonably to have become aware, of the cessation.

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Note 1: A register notice need not be given under this section if a registered circumstance ceases before the register notice that would give rise to the registered circumstance is given. However, the data standards may require a register notice to state whether the registered circumstance has already ceased at the time the register notice is given.

Note 2: A registered circumstance may exist only on or after the Register commencement day.

(2) The registrable event day for a register notice under this section is the day on which the foreign person is aware, or ought reasonably to have become aware, that the registered circumstance has ceased.

(3) However, if the registered circumstance is a registered circumstance under section 130ZE or 130ZF (registrable water interests), the registrable event day for a register notice under this section is the last day of the financial year in which the registered circumstance ceases.

130ZR Foreign person ceases to be a foreign person while registered circumstances exist

(1) A person must give a register notice to the Registrar if:
  (a) one or more registered circumstances relate to the person; and
  (b) the person ceases to be a foreign person.

Note: A registered circumstance may exist only on or after the Register commencement day.

(2) Each such registered circumstance ceases when the notice is given. No register notice under section 130ZQ is required for the cessation of a registered circumstance under this subsection.

(3) Subject to subsections (5) and (7) of this section, the registrable event day for a register notice under this section is the day on which the person ceases to be a foreign person.

Notice by executor or administrator of person who has died

(4) If the person ceases to be a foreign person because the person dies, the executor or administrator of the person's estate must give the register notice to the Registrar.

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Note: The executor or administrator may also be required to give a register notice or notices under section 130ZS.

(5) If subsection (4) applies to a register notice, the registrable event day for the register notice under this section is the day on which the executor or administrator is appointed.

Notice by liquidator of corporation that is wound up

(6) If the person ceases to be a foreign person because the person is a corporation that is wound up, the liquidator of the corporation must give the register notice to the Registrar.

Note: The liquidator may also be required to give a register notice or notices under section 130ZT.

(7) If subsection (6) applies to a register notice, the registrable event day for the register notice under this section is the day on which the corporation is wound up.

Subdivision E—Requirements relating to persons who die, or corporations that are wound up, before notice is given

130ZS Requirement for executor or administrator to give notice for person who dies before giving notice

(1) If a person who is required to give a register notice to the Registrar under a provision of this Division dies before giving the notice, the executor or administrator of the person's estate must give the register notice in accordance with the provision.

Note: The executor or administrator may also be required to give a register notice or notices under subsection 130ZR(4).

(2) Despite the provision of this Division mentioned in subsection (1):
(a) no registered circumstance exists because of a notice under subsection (1); and
(b) the registrable event day for a notice under subsection (1) is the day the executor or administrator is appointed.

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130ZT Requirement for corporate liquidator to give notice for corporation that is wound up before giving notice

(1) If a person who is required to give a register notice to the Registrar under a provision of this Division is a corporation and is wound up before giving the notice, the liquidator of the corporation must give the register notice in accordance with the provision.

Note: The liquidator may also be required to give a register notice or notices under subsection 130ZR(6).

(2) Despite the provision of this Division mentioned in subsection (1):
(a) no registered circumstance exists because of a notice under subsection (1); and
(b) the registrable event day for a notice under subsection (1) is the day the corporation is wound up.

Subdivision F—Prescribed requirements

130ZU Regulations may require notice to be given to Registrar

(1) The regulations may prescribe:
(a) circumstances in which a person specified in the regulations must give a register notice to the Registrar; and
(b) the registrable event day for such a register notice; and
(c) registered circumstances that relate to a foreign person who gives such a register notice; and
(d) circumstances in which such a registered circumstance ceases.

(2) A person who is required to give a register notice under regulations made for the purposes of subsection (1) must comply with the requirement.

(3) To avoid doubt, circumstances prescribed for the purposes of paragraph (1)(a) or (d) may relate to matters or events occurring before, on or after the Register commencement day.

Note: However, a requirement to give a register notice arises only on or after the Register commencement day (see section 130Q).

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Division 4—Consequences of failing to give notice to Registrar

130ZV Civil penalty for failing to give notice to Registrar

A person contravenes this section if:

(a) the person is required to give a register notice to the Registrar before a particular time (the ***notice time***); and

(b) the person does not comply with the requirement.

Civil penalty: 250 penalty units.

Division 5—Miscellaneous

130ZW Directions by Treasurer

(1) The Treasurer may, by legislative instrument, give written directions to the Registrar about the performance of the Registrar's functions and the exercise of the Registrar's powers.

Note: Section 42 (disallowance) and Part 4 of Chapter 3 (sunsetting) of the *Legislation Act 2003* do not apply to the directions (see regulations made for the purposes of paragraphs 44(2)(b) and 54(2)(b) of that Act).

(2) Without limiting subsection (1), a direction under that subsection may relate to any of the following:

(a) matters to be dealt with in the data standards;

(b) without limiting section 17 (consultation before making legislative instruments) of the *Legislation Act 2003,* consultation processes to be followed prior to making data standards.

(3) A direction under subsection (1) must be of a general nature only.

(4) Subsection (3) does not prevent a direction under subsection (1) from relating to a particular matter to be dealt with in the data standards. However, the direction must not direct the Registrar how to apply the data standards in a particular case.

(5) The Registrar must comply with a direction under subsection (1).

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130ZX Delegation

(1) The Registrar may, in writing, delegate all or any of the Registrar's functions or powers under this Part (other than the power to make a legislative instrument) to:

(a) any person to whom the Registrar may delegate any of the Registrar's other functions, as a kind of body or person mentioned in the definition of ***eligible Registrar appointee*** in section 4, under a law of the Commonwealth; or

(b) any person of a kind prescribed by the regulations.

Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.

(2) If a power (other than a power to make a legislative instrument) is delegated to the Registrar under subsection 137(2A), the Registrar may, in writing, subdelegate the power to a person mentioned in paragraph (1)(a) or (b) of this section.

(3) Sections 34AA, 34AB and 34A of the *Acts Interpretation Act 1901* apply in relation to the subdelegation in a way corresponding to the way in which they apply in relation to a delegation.

Directions

(4) In exercising powers or performing functions delegated or subdelegated by the Registrar under this section, the delegate or subdelegate must comply with any directions of the Registrar.

130ZY Report to the Parliament

(1) The Registrar must give the Treasurer, for presentation to the Parliament, a report for each financial year that:

(a) is on the operation of this Part during the financial year; and

(b) includes statistics derived by the Registrar from information in the Register.

(2) The statistics in the report must not identify, or be reasonably capable of being used to identify, a person.

(3) The Registrar must give the report to the Treasurer as soon as practicable after 30 June in the financial year.

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Note: See also section 34C of the *Acts Interpretation Act 1901*, which contains extra rules about periodic reports.

130ZZ Data standards

(1) The Registrar may, by legislative instrument, determine data standards on matters relating to the performance of the Registrar's functions and the exercise of the Registrar's powers.

(2) Without limiting subsection (1), the data standards may provide for any of the following:

(a) the manner and form in which register notices must be given to the Registrar (including by requiring register notices to be given by electronic communication);

(b) information or documents that must accompany a register notice;

(c) how information held by the Registrar is to be authenticated, verified or validated;

(d) how information held by the Registrar is to be stored;

(e) correcting or updating information held by the Registrar;

(f) making available to a person:

(i) information included on the Register as a result of a register notice given to the Registrar by the person; and

(ii) information about a registered circumstance that relates to a person, including about whether such a registered circumstance exists;

(g) making information mentioned in paragraph (f) available to the executor or administrator of the estate of a person who has died, or to the liquidator of a person that is or was a corporation and is being or has been wound up;

(h) the manner and form of communication between the Registrar and persons who give information to the Registrar or seek to access information held by the Registrar;

(i) integrating or linking information held by the Registrar;

(j) combining register notices under multiple provisions into a single register notice.

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9 Subsection 133(1)

Omit "relating to matters that are relevant to the exercise by the Treasurer of his or her powers under this Act.", substitute:

relating to:

(a) matters that are relevant to the exercise by the Treasurer of the Treasurer's powers under this Act; or

(b) information that is contained in the Register, or may be added to the Register; or

(c) circumstances in which a person is required to give a notice to the Registrar under Part 7A.

10 At the end of section 135

Add:

(4) However, this section does not apply to register notices.

Note: The manner of giving register notices is provided for by data standards made under section 130ZZ.

11 Subsection 137(1)

Omit "or 110", substitute ", 110, 130R, 130ZW or regulations made for the purposes of paragraph 130Z(2)(d)".

12 Subsection 137(2)

Omit "or 110 (exemption from stamp duty and other State or Territory taxes and fees)", substitute ", 110 (exemption from stamp duty and other State or Territory taxes and fees) or regulations made for the purposes of paragraph 130Z(2)(d) (extension of time to give register notice)".

13 After subsection 137(2)

Insert:

(2A) The Treasurer may delegate the Treasurer's powers under the following provisions to the Registrar:

(a) regulations made for the purposes of section 130Z (including the power to make an instrument under regulations made for the purposes of paragraph 130Z(2)(d));

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(b) an instrument made under regulations made for the purposes of paragraph 130Z(2)(d));
(c) paragraph 133(1)(b) or (c) (power to require information or documents);
(d) section 135A (service of notices and other documents) in relation to a notice under paragraph 133(1)(b) or (c).

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Part 2—Repeals

Register of Foreign Ownership of Water or Agricultural Land Act 2015

14 The whole of the Act

Repeal the Act.

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Part 3—Amendments consequential on repeal

Foreign Acquisitions and Takeovers Act 1975

15 Paragraph 101A(3)(b)

Omit "*2001*;", substitute "*2001*.".

16 Paragraph 101A(3)(c)

Repeal the paragraph.

17 Paragraph 101B(2)(b)

Omit "*2001*;", substitute "*2001*.".

18 Paragraph 101B(2)(c)

Repeal the paragraph.

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Part 4—Transitional provisions

19 Definitions

In this Part:

Act means the *Foreign Acquisitions and Takeovers Act 1975*.

agricultural land has the meaning given by the old Register Act.

agricultural land interest means:

(a) a freehold interest in agricultural land; or

(b) a right to occupy agricultural land under a lease or licence.

freehold interest has the meaning given by the old Register Act.

hold:

(a) in relation to an agricultural land interest, has a meaning affected by section 6 of the old Register Act; and

(b) in relation to a registrable water entitlement or a contractual water right, has a meaning affected by section 6A of the old Register Act.

lease includes a sublease.

old Register Act means the *Register of Foreign Ownership of Water or Agricultural Land Act 2015* as in force before its repeal by Part 2 of this Schedule.

relevant water interest means:

(a) a registrable water entitlement (within the meaning of the old Register Act); or

(b) a contractual water right (within the meaning of that Act).

20 Transitional registered interest—interest in agricultural land

(1) This item applies to a person if:

(a) at any time before the Register commencement day, any of the following was given to the Commissioner of Taxation by or on behalf of a person:

(i) a notice under section 19 (holdings of agricultural land as at 1 July 2015) of the old Register Act that related to a particular agricultural land interest;

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(ii) a notice under section 20 (changes of foreign persons' holdings of agricultural land) of that Act of an event described in section 21, 23 or 25 of that Act that related to a particular agricultural land interest; and

(b) the person did not, at any time before the Register commencement day, give the Commissioner of Taxation a notice under section 20 of that Act of an event described in section 22, 24 or 26 of that Act in relation to the agricultural land interest.

Registered circumstance

(2) If, at the start of the Register commencement day, the person:

(a) is a foreign person; and

(b) holds the agricultural land interest;

then:

(c) a registered circumstance under section 130ZA of the Act is taken to exist in relation to the person (despite subsection 130ZA(5) of the Act); and

(d) to avoid doubt, the registered circumstance may cease in accordance with the Act as if it were a registered circumstance under that section of the Act that exists because the person acquired the agricultural land interest.

Notice that person is no longer a foreign person, or no longer holds interest

(3) If, at the start of the Register commencement day, the person:

(a) is not a foreign person; or

(b) does not hold the agricultural land interest;

then:

(c) the person must give a notice to the Registrar; and

(d) the Act applies to that notice as if it were a register notice; and

(e) if paragraph (a) applies—the registrable event day for the register notice is the Register commencement day; and

(f) if paragraph (b) applies, and paragraph (a) does not apply—the registrable event day for the register notice is the later of:

(i) the Register commencement day; and

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(ii) the day the person becomes aware, or ought reasonably to have become aware, that the person does not hold the agricultural land interest.

21 Transitional—interest in water

(1) This item applies to a person if:

(a) at any time before the Register commencement day, any of the following was given to the Commissioner of Taxation by or on behalf of a person:

(i) a notice under section 30H (holdings of water entitlements or contractual water rights as on 30 November 2017) of the old Register Act that related to a particular relevant water interest;

(ii) a notice under section 30K (changes of foreign persons' holdings of water entitlements or contractual water rights) of that Act of an event described in section 30L or 30N of that Act that related to a particular relevant water interest; and

(b) the person did not, at any time before the Register commencement day, give the Commissioner of Taxation a notice under section 30J or 30K of that Act of an event described in section 30M or 30P of that Act in relation to the relevant water interest.

Registered circumstance

(2) If, at the start of the Register commencement day, the person:

(a) is a foreign person; and

(b) holds the relevant water interest;

then:

(c) a registered circumstance under section 130ZE of the Act is taken to exist in relation to the person (despite subsection 130ZE(5) of the Act); and

(d) to avoid doubt, the registered circumstance may cease in accordance with the Act as if it were a registered circumstance under that section of the Act that exists because the person acquired the relevant water interest.

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Notice that person is no longer a foreign person, or no longer holds interest

(3) If, at the start of the Register commencement day, the person:

(a) is not a foreign person; or

(b) does not hold the relevant water interest;

then:

(c) the person must give a notice to the Registrar; and

(d) the Act applies to that notice as if it were a register notice; and

(e) if paragraph (a) applies—the registrable event day for the register notice is the Register commencement day; and

(f) if paragraph (b) applies, and paragraph (a) does not apply—the registrable event day for the register notice is the later of:

(i) the Register commencement day; and

(ii) the day the person becomes aware, or ought reasonably to have become aware, that the person does not hold the relevant water interest.

22 Transitional—interest in agricultural land not previously notified to the Commissioner of Taxation

(1) This item applies to a person if:

(a) at the start of the Register commencement day, the person:

(i) is a foreign person; and

(ii) holds an agricultural land interest; and

(b) the person:

(i) was required to give a notice to the Commissioner of Taxation in relation to the agricultural land interest under section 19 of the old Register Act; or

(ii) was required to give a notice to the Commissioner of Taxation under section 20 of that Act of an event described in section 21, 23 or 25 of that Act in relation to the agricultural land interest; or

(iii) would have been required to give a notice as mentioned in subparagraph (ii) of this paragraph if the 30-day period mentioned in section 20 of that Act had passed before the Register commencement day; and

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(c) the notice was not given before the Register commencement day.

(2) The person must give a register notice to the Registrar in relation to the interest under section 130ZA of the Act.

(3) Despite subsection 130ZA(4) of the Act, the registrable event day for the notice is the Register commencement day.

23 Transitional—interest in water not previously notified to the Commissioner of Taxation

(1) This item applies to a person if:

(a) at the start of the Register commencement day, the person:

(i) is a foreign person; and

(ii) holds a relevant water interest; and

(b) the person:

(i) was required to give a notice to the Commissioner of Taxation in relation to the relevant water interest under section 30H of the old Register Act; or

(ii) was required to give a notice to the Commissioner of Taxation under section 30K of that Act of an event described in section 30L or 30N of that Act in relation to the relevant water interest; or

(iii) would have been required to give a notice as mentioned in subparagraph (ii) of this paragraph if the 30-day period mentioned in section 30K of that Act had passed before the Register commencement day; and

(c) the notice was not given before the Register commencement day.

(2) The person must give a register notice to the Registrar under section 130ZE of the Act.

(3) Despite subsection 130ZE(4) of the Act, the registrable event day for the notice is the Register commencement day.

24 Transitional rules

(1) The Treasurer may, by legislative instrument, make rules:

(a) providing for information obtained in accordance with the Act, or contained in the Register of Foreign Ownership of Agricultural Land or Register of Foreign Ownership of Water Entitlements, before the Register commencement day to be included in the Register; and

(b) requiring the Treasurer, the Secretary or the Commissioner of Taxation to cause such information to be given to the Registrar; and

(c) providing for a registered circumstance to be taken to exist for the purposes of that Act in relation to a foreign person in circumstances (relating to transitional matters) specified in the rules; and

(d) providing for the circumstances in which such registered circumstances cease; and

(e) requiring the Registrar, in cases specified in the rules, to give a written notice to a person to whom a registered circumstance arising under the rules relates; and

(f) prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to the repeal of the old Register Act.

(2) Rules under subitem (1) may only be made before the day 12 months after the Register commencement day (but may continue to apply on and after that day, and may be revoked by the Treasurer, by legislative instrument, before, on or after that day).

(3) A disclosure of information under rules made for the purposes of paragraph (1)(b) of this item is taken to be authorised by Part 7 of the Act.

(4) A registered circumstance provided for by a rule made for the purposes of paragraph (1)(c) must begin to apply:

(a) on or after the later of:

(i) the commencement of the rule; and

(ii) the Register commencement day; and

(b) no later than 12 months after the Register commencement day.

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(5) To avoid doubt, the inclusion of information in the Register under the rules does not result in there being a registered circumstance in relation to a person, other than as provided for by:

(a) another provision of this Part; or

(b) rules made for the purposes of paragraph (1)(c) of this item.

(6) Section 135A (service of notices and other documents on persons who cannot be found, or who are not in Australia) of the Act applies to a notice under rules made for the purposes of paragraph (1)(e) of this item in the same way as it applies to a notice under the Act, except that a reference in that section to the Secretary, the Treasurer or the Commissioner of Taxation includes a reference to the Registrar.

(7) To avoid doubt, rules made under subitem (1) may not do the following:

(a) create an offence or civil penalty;

(b) provide powers of:

(i) arrest or detention; or

(ii) entry, search or seizure;

(c) impose a tax;

(d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;

(e) directly amend the text of an Act.

25 Final report under section 34 of the old Register Act

Despite the repeal of the old Register Act by Part 2 of this Schedule, the Commissioner of Taxation must give the Minister, for presentation to the Parliament, a report under section 34 of that Act as soon as practicable after the commencement of Part 2 of this Schedule.

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

(135/20)

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