



Treasury Laws Amendment (2022 Measures No. 3) Act 2022

No. 75, 2022

**An Act to amend the law relating to foreign
investment and acquisitions, taxation, coronavirus
and superannuation, 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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**An Act to amend the law relating to foreign
investment and acquisitions, taxation, coronavirus
and superannuation, and for related purposes**

[Assented to 5 December 2022]

The Parliament of Australia enacts:

1 Short title

This Act is the *Treasury Laws Amendment (2022 Measures No. 3) Act 2022*.

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 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	5 December 2022
2. Schedule 1	1 January 2023.	1 January 2023
3. Schedules 2 and 3	The day after this Act receives the Royal Assent.	6 December 2022
4. Schedule 4	At the same time as the <i>Income Tax Amendment (Labour Mobility Program) Act 2022</i> commences. However, the provisions do not commence at all if that Act does not commence.	1 July 2022

Note: This table relates only to the provisions of this Act as originally enacted.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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Foreign acquisitions and takeovers penalties

Foreign Acquisitions and Takeovers Act 1975

1 Subsection 88(1) (penalty)

Omit “15,000”, substitute “30,000”.

2 Subsection 88(1) (penalty)

Omit “150,000”, substitute “300,000”.

3 Paragraph 94(4)(a)

Before “the amount”, insert “double”.

4 Paragraphs 94(4)(b) and (c)

Omit “25%”, substitute “50%”.

5 Paragraph 95(7)(a)

Before “the amount”, insert “double”.

6 Paragraphs 95(7)(b) and (c)

Omit “25%”, substitute “50%”.

7 Paragraph 95A(3)(a)

Before “the amount”, insert “double”.

8 Paragraphs 95A(3)(b) and (c)

Omit “25%”, substitute “50%”.

9 Paragraph 96(4)(a)

Before “the amount”, insert “double”.

10 Paragraphs 96(4)(b) and (c)

Omit “25%”, substitute “50%”.

11 Subsections 97(1), (1A) and (2), 115D(1), 115DA(1) and 115G(1) (penalty)

Omit “250”, substitute “500”.

12 Application of amendments

The amendments made by this Schedule apply in relation to:

- (a) a contravention of subsection 95(1) of the *Foreign Acquisitions and Takeovers Act 1975* that:
 - (i) started before 1 January 2023 and did not end before 1 January 2023; or
 - (ii) starts on or after 1 January 2023; or
- (b) a contravention of any other provision of that Act committed on or after 1 January 2023.

Schedule 2—Data sharing to support government responses to major disasters

National Emergency Declaration Act 2020

1 Section 10 (after paragraph (zd) of the definition of *national emergency law*)

Insert:

(zda) section 355-66 in Schedule 1 to the *Taxation Administration Act 1953*;

Taxation Administration Act 1953

2 Subsection 355-65(8) in Schedule 1 (at the end of Table 7)

Add:

13	an *Australian government agency	is for the purpose of administering a program declared under section 355-66 to be a major disaster support program.
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3 After section 355-65 in Schedule 1

Insert:

355-66 Major disaster support programs

- (1) For the purposes of item 13 of Table 7 in subsection 355-65(8), the Minister may, by legislative instrument, declare a program administered by an *Australian government agency to be a major disaster support program if the Minister is satisfied that the program is, in effect:
- (a) responding to the impacts of an event to which subsection (2) of this section applies; and
 - (b) directed at supporting:
 - (i) individuals whom the event has significantly impacted; or

- (ii) *businesses the operations of which the event has significantly disrupted.
- (2) This subsection applies to an event if:
- (a) the event developed rapidly and resulted in:
 - (i) the death, serious injury or other physical suffering of a large number of individuals; or
 - (ii) widespread damage to property or the natural environment; or
 - (b) the event is an emergency to which a national emergency declaration (within the meaning of the *National Emergency Declaration Act 2020*) relates (including a national emergency declaration that is no longer in force).

Period of effect

- (3) A declaration made under subsection (1) must specify the period for which the declaration is in force. The period must end no later than 2 years after the day the declaration is registered on the Federal Register of Legislation.

4 Application of amendments

Item 13 of Table 7 in subsection 355-65(8) in Schedule 1 to the *Taxation Administration Act 1953* applies in relation to records and disclosures of information made on or after the commencement of this item, whether the information was obtained before, on or after that commencement.

Schedule 3—Modification power

Coronavirus Economic Response Package Omnibus (Measures No. 2) Act 2020

1 Subitems 1(7) and (8) of Schedule 5

Omit “2022”, substitute “2023”.

2 Application of amendments

The amendment of subitem 1(7) of Schedule 5 to the *Coronavirus Economic Response Package Omnibus (Measures No. 2) Act 2020* made by this Schedule applies to a determination made under subitem 1(2) of Schedule 5 to that Act if the determination:

- (a) was made before the commencement of this item and did not cease to have operation before that commencement; or
- (b) is made on or after that commencement.

Schedule 4—Tax treatment for new or revised visa programs

Income Tax Assessment Act 1936

1 Subsection 170(10AA) (table item 15)

Omit “Seasonal Labour Mobility Program withholding tax”, substitute “labour mobility program withholding tax”.

Income Tax Assessment Act 1997

2 Section 11-55 (table item headed “foreign aspects of income taxation”)

Omit “Seasonal Labour Mobility Program withholding tax”, substitute “labour mobility program withholding tax”.

3 Section 12-5 (table item headed “employees”)

Omit:

pensions, gratuities or retiring allowances for
ex-employees 25-50

Seasonal Labour Mobility Program, delayed deduction
for salary, wages etc. paid to employees under
program until Seasonal Labour Mobility Program
withholding tax payable has been paid 26-25A

substitute:

labour mobility programs, delayed deduction for
salary, wages etc. paid to employees under program
until labour mobility program withholding tax
payable has been paid 26-25A

pensions, gratuities or retiring allowances for
ex-employees 25-50

4 Section 26-25A (heading)

Repeal the heading, substitute:

26-25A Payments to employees—labour mobility programs

5 Subsection 26-25A(1)

Omit “(about the Seasonal Labour Mobility Program)”, substitute “(about labour mobility programs)”.

6 Paragraph 26-25A(2)(b)

Omit “*Seasonal Labour Mobility Program withholding tax”, substitute “*labour mobility program withholding tax”.

7 Subdivision 840-S (heading)

Repeal the heading, substitute:

Subdivision 840-S—Labour mobility program withholding tax

8 Section 840-900

Omit “the Seasonal Labour Mobility Program”, substitute “a labour mobility program”.

9 Section 840-905 (heading)

Repeal the heading, substitute:

840-905 Liability for labour mobility program withholding tax

10 Paragraph 840-905(a)

Repeal the paragraph, substitute:

- (a) that is salary, wages, commission, bonuses or allowances paid to you as an employee of an Approved Employer under a program covered by section 840-906; and

11 At the end of paragraph 840-905(b)

Add:

- ; or (iii) you hold a visa of a kind prescribed by the regulations for the purposes of this subparagraph.

12 Section 840-905 (note 1)

Repeal the note, substitute:

Note 1: The tax, which is called labour mobility program withholding tax, is imposed by the *Income Tax (Labour Mobility Program Withholding Tax) Act 2012* and the rate of the tax is set out in that Act.

13 After section 840-905

Insert:

840-906 Covered labour mobility programs

This section covers the following programs:

- (a) the Seasonal Labour Mobility Program;
- (b) the Pacific Australia Labour Mobility scheme;
- (c) each program prescribed by the regulations for the purposes of this paragraph.

14 Section 840-910 (heading)

Repeal the heading, substitute:

840-910 When labour mobility program withholding tax is payable

15 Subsection 840-910(1)

Omit “*Seasonal Labour Mobility Program withholding tax”, substitute “*Labour mobility program withholding tax”.

16 Subsections 840-910(2), (3) and (4)

Omit “*Seasonal Labour Mobility Program withholding tax”, substitute “*labour mobility program withholding tax”.

17 Section 840-915

Omit “*Seasonal Labour Mobility Program withholding tax”, substitute “*labour mobility program withholding tax”.

18 Section 840-920 (heading)

Repeal the heading, substitute:

840-920 Overpayment of labour mobility program withholding tax

19 Section 840-920

Omit “*Seasonal Labour Mobility Program withholding tax”, substitute “*labour mobility program withholding tax”.

20 Subsection 995-1(1)

Insert:

labour mobility program withholding tax means income tax payable under Subdivision 840-S.

Note: The tax is imposed by the *Income Tax (Labour Mobility Program Withholding Tax) Act 2012* and the rate of the tax is set out in that Act.

21 Subsection 995-1(1) (definition of *Seasonal Labour Mobility Program withholding tax*)

Repeal the definition.

Income Tax (Transitional Provisions) Act 1997

22 Subdivision 840-S (heading)

Repeal the heading, substitute:

Subdivision 840-S—Labour mobility program withholding tax

Taxation Administration Act 1953

23 Subsection 8AAB(4) (table item 18A)

Omit “Seasonal Labour Mobility Program withholding tax”, substitute “labour mobility program withholding tax”.

24 Subsection 10-5(1) in Schedule 1 (table item 22D)

Omit “the Seasonal Labour Mobility Program”, substitute “a labour mobility program”.

25 Subdivision 12-FC in Schedule 1 (heading)

Repeal the heading, substitute:

Subdivision 12-FC—Labour mobility programs

26 Paragraph 12-319A(a) in Schedule 1

Omit “the Seasonal Labour Mobility Program”, substitute “a program covered by section 840-906 of the *Income Tax Assessment Act 1997* (about labour mobility programs)”.

27 At the end of paragraph 12-319A(b) in Schedule 1

Add:

; or (iii) the employee holds a visa of a kind prescribed by regulations made under the *Income Tax Assessment Act 1997* for the purposes of subparagraph 840-905(b)(iii) of that Act.

28 Subsection 15-15(1) in Schedule 1 (note 3A)

Omit “the Seasonal Labour Mobility Program”, substitute “certain labour mobility programs”.

29 Paragraph 16-195(1)(ab) in Schedule 1

Omit “(Seasonal Labour Mobility Program)”, substitute “(about labour mobility programs)”.

30 Paragraph 18-10(1)(c) in Schedule 1

Omit “(Seasonal Labour Mobility Program)”, substitute “(Labour Mobility Programs)”.

31 Group heading before section 18-30 in Schedule 1

Omit “Seasonal Labour Mobility Program”, substitute “labour mobility program”.

32 Section 18-33 in Schedule 1 (heading)

Repeal the heading, substitute:

18-33 Credit: labour mobility programs

33 Paragraph 18-33(1)(b) in Schedule 1

Omit “(about the Seasonal Labour Mobility Program)”, substitute “(about labour mobility programs)”.

34 Paragraph 18-35(1AA)(a) in Schedule 1

Omit “Seasonal Labour Mobility Program”, substitute “labour mobility programs”.

35 Paragraph 18-35(1AA)(b) in Schedule 1

Omit “*Seasonal Labour Mobility Program withholding tax”, substitute “*labour mobility program withholding tax”.

36 Paragraph 18-35(1AA)(d) in Schedule 1

Omit “Seasonal Labour Mobility Program withholding tax”, substitute “labour mobility program withholding tax”.

37 Subsection 250-10(2) in Schedule 1 (table item 39AA)

Omit “Seasonal Labour Mobility Program withholding tax”, substitute “labour mobility program withholding tax”.

38 Application of amendments

The amendments made by this Schedule apply in relation to salary, wages, commission, bonuses and allowances paid on or after 1 July 2022.

*[Minister’s second reading speech made in—
House of Representatives on 8 September 2022
Senate on 27 October 2022]*

(83/22)
