



Foreign Acquisitions and Takeovers Fees Imposition Amendment Act 2024

No. 17, 2024

***An Act to amend the *Foreign Acquisitions and
Takeovers Fees Imposition Act 2015* and the *Foreign
Acquisitions and Takeovers Fees Imposition
Regulations 2020*, 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 Acquisitions and Takeovers Fees Imposition Amendment Act 2024

No. 17, 2024

An Act to amend the *Foreign Acquisitions and Takeovers Fees Imposition Act 2015* and the *Foreign Acquisitions and Takeovers Fees Imposition Regulations 2020*, and for related purposes

[Assented to 8 April 2024]

The Parliament of Australia enacts:

1 Short title

This Act is the *Foreign Acquisitions and Takeovers Fees Imposition Amendment Act 2024*.

No. 17, 2024 *Foreign Acquisitions and Takeovers Fees Imposition Amendment Act* 1
2024

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. The whole of this Act	The later of: (a) 1 April 2024; and (b) the day after this Act receives the Royal Assent.	9 April 2024 (paragraph (b) applies)

Note: This table relates only to the provisions of this Act as originally enacted.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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Note: The provisions of the *Foreign Acquisitions and Takeovers Fees Imposition Regulations 2020* amended or inserted by this Act, and any other provisions of that instrument, may be amended or repealed by regulations made under section 13 of the *Foreign Acquisitions and Takeovers Fees Imposition Act 2015* (see subsection 13(5) of the *Legislation Act 2003*).

Schedule 1—Amendments of the Act

Foreign Acquisitions and Takeovers Fees Imposition Act 2015

1 Subsection 6(3)

Omit “\$1,045,000”, substitute “\$7,000,000”.

2 Subsection 7(1)

Omit “2023”, substitute “2024”.

3 Subsection 8(1)

Repeal the subsection, substitute:

(1) The *indexation factor* is:

$$\frac{\text{Sum of the index numbers for the 4 quarters in the year ending on
31 March just before the start of the relevant financial year}}{\text{Sum of the index numbers for the 4 quarters in the year ending on
31 March in the financial year before the financial year
in which this subsection commences}}$$

4 Application of amendments

- (1) The amendment made by item 1 of this Schedule applies in relation to a fee that becomes payable on or after the commencement of this Schedule.
- (2) To avoid doubt, if items 2 and 3 of this Schedule commence after 1 July 2024, the indexation required by subsection 7(1) of the *Foreign Acquisitions and Takeovers Fees Imposition Act 2015*, as amended by this Schedule, applies on the first 1 July that occurs after that commencement.

Schedule 2—Amendments of the regulations

Foreign Acquisitions and Takeovers Fees Imposition Regulations 2020

1 Section 10

Before “The”, insert “(1)”.

2 Section 10 (table item 1, column 2)

Omit “\$13,200”, substitute “\$14,100”.

3 Section 10 (table item 2, column 2, subparagraph (a)(i))

Omit “\$26,400”, substitute “\$28,200”.

4 Section 10 (table item 2, column 2, paragraph (b))

Omit “\$1,045,000”, substitute “\$1,119,100”.

5 Section 10 (table item 3, column 2, subparagraph (a)(i))

Omit “\$26,400”, substitute “\$28,200”.

6 Section 10 (table item 3, column 2, paragraph (b))

Omit “\$1,045,000”, substitute “\$1,119,100”.

7 At the end of section 10

Add:

Triple fees for established dwellings

- (2) However, if the action is to acquire an interest in residential land on which there is at least one established dwelling, then the amount of the fee for the action is 3 times the fee worked out by applying subsection (1).

8 Section 12

Omit “\$4,000”, substitute “\$4,200”.

9 Section 13 (table item 3)

Repeal the item, substitute:

3	to acquire an interest in Australian land that, at the time of acquisition, is: (a) national security land; and (b) residential land on which there are no established dwellings	an action to acquire an interest in residential land on which there are no established dwellings
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3A	to acquire an interest in Australian land that, at the time of acquisition, is: (a) national security land; and (b) residential land on which there is at least one established dwelling	an action to acquire an interest in residential land on which there is at least one established dwelling
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10 Section 16

Omit “\$26,400”, substitute “\$28,200”.

11 Subsection 17(1) (table item 3)

Repeal the item, substitute:

3	to acquire an interest in Australian land that is residential land on which there are no established dwellings	an action to acquire an interest in residential land on which there are no established dwellings
3A	to acquire an interest in Australian land that is residential land on which there is at least one established dwelling	an action to acquire an interest in residential land on which there is at least one established dwelling

12 Section 27 (table item 1, column headed “the amount of the fee is:”)

Omit “\$4,000”, substitute “\$4,200”.

13 Section 27 (table item 2, column headed “the amount of the fee is:”)

Omit “\$26,400”, substitute “\$28,200”.

14 Section 28 (table item 1, column headed “the amount of the fee is:”)

Omit “\$4,000”, substitute “\$4,200”.

15 Section 28 (table item 2, column headed “the amount of the fee is:”)

Omit “\$26,400”, substitute “\$28,200”.

16 Subsection 30(1)

Omit “\$56,600”, substitute “\$60,600”.

17 Subsection 31(1)

Omit “\$56,600”, substitute “\$60,600”.

18 Subsection 31(1) (note)

Omit “Note”, substitute “Note 1”.

19 At the end of subsection 31(1)

Add:

Note 2: A residential land (near-new dwellings interests) certificate is issued under section 43A of the Foreign Acquisitions Regulation.

20 Section 32

Omit “and were an acquisition of an interest in residential land”.

21 Section 32 (note)

Omit “Note”, substitute “Note 1”.

22 At the end of section 32

Add:

Note 2: A residential land (other than established dwellings) certificate is issued under section 43B of the Foreign Acquisitions Regulation.

23 Subsections 33(1) and (2)

Repeal the subsections, substitute:

- (1) This section applies in relation to an application for any of the following kinds of certificate:
- (a) an exemption certificate under section 58 of the Foreign Acquisitions Act (about acquisitions of interests in Australian land);
 - (b) a businesses or entities certificate;
 - (c) a tenements and mining, production or exploration entities certificate;
 - (d) a certificate under section 43BA of the Foreign Acquisitions Regulation (about notifiable national security actions);
 - (e) a certificate under section 43BB of the Foreign Acquisitions Regulation (about reviewable national security actions).

The fee for most other certificates is 75% of the full fee

- (2) The amount of the fee for the application is equal to the lesser of:
- (a) 75% of the sum of each amount worked out under column 2 of each of the items in the table in subsection (3) that applies for the application; and
 - (b) 75% of:
 - (i) unless subparagraph (ii) applies—the amount in paragraph (b) of column 2 of item 2 of the table in section 10; or
 - (ii) if the actions to be covered by the certificate include an action to acquire an interest in residential land on which there is at least one established dwelling—the amount worked out under subsection (4) of this section.

Note 1: This fee might be adjusted if the person applies for another certificate within 14 days (see section 35).

Note 2: The amount in paragraph (b) of column 2 of item 2 of the table in section 10 is subject to indexation.

The fee for certificates dealing only with reviewable national security actions is 25% of the full fee

- (2A) However, if the actions to be covered by the certificate are all reviewable national security actions, then the amount of the fee for the application is equal to the lesser of:

- (a) 25% of the sum of each amount worked out under column 2 of each of the items in the table in subsection (3) that applies for the application; and
- (b) 25% of:
 - (i) unless subparagraph (ii) applies—the amount in paragraph (b) of column 2 of item 2 of the table in section 10; or
 - (ii) if the actions to be covered by the certificate include an action to acquire an interest in residential land on which there is at least one established dwelling—3 times the amount in paragraph (b) of column 2 of item 2 of the table in section 10.

Note 1: This fee might be adjusted if the person applies for another certificate within 14 days (see section 35).

Note 2: The amount in paragraph (b) of column 2 of item 2 of the table in section 10 is subject to indexation.

24 Subsection 33(3)

Omit “or (2)”.

25 Subsection 33(3) (table item 1)

Repeal the item, substitute:

1	actions involving acquisitions of interests in residential land on which there are no established dwellings (the <i>residential land (other than established dwellings) actions</i>)	what would be the fee under Subdivision B of Division 2 if the residential land (other than established dwellings) actions were replaced by a single action covered by that Subdivision: <ul style="list-style-type: none">(a) for the acquisition of an interest in residential land on which there are no established dwellings; and(b) for which the value of the consideration was equal to the sum of the values of the consideration for the residential land (other than established dwellings) actions
1A	actions involving acquisitions of interests in residential land on which there is at least one	what would be the fee under Subdivision B of Division 2 if the residential land (established dwellings)

established dwelling (the *residential land (established dwellings) actions*)

actions were replaced by a single action covered by that Subdivision:

- (a) for the acquisition of an interest in residential land on which there is at least one established dwelling; and
- (b) for which the value of the consideration was equal to the sum of the values of the consideration for the residential land (established dwellings) actions

26 At the end of section 33

Add:

Adjusted maximum fee for certificates that cover established dwellings

- (4) For the purposes of subparagraph (2)(b)(ii), work out the amount using the following formula, rounding the result down to the nearest multiple of \$100:

$$\text{Established dwellings fee} + \left[\frac{\text{Percentage of established dwellings maximum fee not charged}}{\text{Maximum fee (other than for established dwellings)}} \right]$$

where:

established dwellings fee means the sum of the amounts worked out under column 2 of item 1A of the table in subsection (3) for each action to be covered by the certificate that is an action to acquire an interest in residential land on which there is at least one established dwelling.

maximum fee (other than for established dwellings) means the amount in paragraph (b) of column 2 of item 2 of the table in section 10.

percentage of established dwellings maximum fee not charged means the percentage worked out by:

- (a) expressing the *established dwellings fee* calculated under the definition in this subsection as a percentage of the amount

that is 3 times the amount in paragraph (b) of column 2 of item 2 of the table in section 10; and

- (b) subtracting the result of paragraph (a) of this definition from 100%.

Note: The amount in paragraph (b) of column 2 of item 2 of the table in section 10 is subject to indexation.

27 Subsection 34(2)

Repeal the subsection, substitute:

- (2) The fee payable for the application for the second certificate is:
 - (a) if the amount of the fee payable for applying for the first certificate equals or exceeds the amount of the fee that would, apart from this subsection, be payable for the second certificate—nil; or
 - (b) if the amount of the fee payable for applying for the first certificate falls short of the amount of the fee that would, apart from this subsection, be payable for the second certificate—the amount of the shortfall.

28 Subsections 35(2) and (3)

Repeal the subsections, substitute:

- (2) The fees payable for the certificates so applied for are worked out by applying section 33 to the applications as if they were an application for a single certificate covered by subsection 33(1).

29 Paragraph 37(2)(b)

After “residential land”, insert “on which there are no established dwellings”.

30 Paragraph 38(2)(b)

After “residential land”, insert “on which there are no established dwellings”.

31 Subsection 40(1) (table item 1, column headed “the amount of the fee is:”)

Omit “\$4,000”, substitute “\$4,200”.

32 Subsection 40(1) (table item 2, column headed “the amount of the fee is:”)

Omit “\$26,400”, substitute “\$28,200”.

33 At the end of the table in subsection 40(1)

Add:

Note: Each of the fee amounts in this table is subject to indexation.

34 Paragraph 41(1)(a)

Omit “\$26,400”, substitute “\$28,200”.

35 Section 43

After “equal to”, insert “double”.

36 Paragraph 43(b)

Repeal the paragraph, substitute:

- (b) if the fee mentioned in paragraph (a) was waived—the amount that would have been payable by the person for giving the notice, assuming item 1 of the table in section 10 of this instrument, as in force at the time the notice was given, had applied to the action.

37 Subsection 44(2)

After “equal to”, insert “double”.

38 Section 45

After “equal to”, insert “double”.

39 Section 46

After “equal to”, insert “double”.

40 Paragraph 46(b)

Repeal the paragraph, substitute:

- (b) if the fee mentioned in paragraph (a) was waived—the amount that would have been payable by the person for giving the notice, assuming item 1 of the table in section 10

of this instrument, as in force at the time the notice was given, had applied to the action.

41 At the end of section 51

Add:

- (5) However, if the dominant kind of relevant land is residential land, and one or more of the actions in the action group involves acquiring an interest in residential land on which there is at least one established dwelling, then, despite paragraph (3)(c), the amount worked out under this section is worked out by:
- (a) starting with the fee that would otherwise apply under this instrument for a single land action:
 - (i) involving an acquisition of an interest in residential land on which there is at least one established dwelling; and
 - (ii) for which the value of the consideration was equal to the sum of the values of the consideration for each of the land actions that is an action to acquire an interest in residential land on which there is at least one established dwelling; and
 - (b) adding the fee that would otherwise apply under this instrument for a single land action:
 - (i) involving an acquisition of an interest in residential land on which there are no established dwellings; and
 - (ii) for which the value of the consideration was equal to the sum of the values of the consideration for each of the land actions that is not an action to acquire an interest in residential land on which there is at least one established dwelling; and
 - (c) if the result of paragraph (b) of this subsection exceeds the amount that would be worked out using the formula in subsection 33(4) if the definition of *established dwelling fee* in that subsection were instead the amount worked out under paragraph (a) of this subsection, subtracting the excess.

42 Paragraphs 53(1)(a) and (b)

Repeal the paragraphs, substitute:

- (a) unless paragraph (b) or (c) applies—\$4,200; or
-

- (b) if the action is a reviewable national security action and paragraph (c) does not apply—25% of the amount in paragraph (a); or
- (c) if the action is to acquire an interest in residential land on which there is at least one established dwelling:
 - (i) unless subparagraph (ii) applies—3 times the amount in paragraph (a); or
 - (ii) if the action is a reviewable national security action—3 times the amount worked out under paragraph (b).

43 Paragraphs 53(2)(a) and (b)

Repeal the paragraphs, substitute:

- (a) unless paragraph (b) or (c) applies—\$4,200; or
- (b) if all of the actions are reviewable national security actions and paragraph (c) does not apply—25% of the amount in paragraph (a); or
- (c) if any of the actions involves acquiring an interest in residential land on which there is at least one established dwelling:
 - (i) unless subparagraph (ii) applies—3 times the amount in paragraph (a); or
 - (ii) if all of the actions are reviewable national security actions—3 times the amount worked out under paragraph (b).

44 Subsection 54(1)

Omit “\$4,000”, substitute “\$4,200”.

45 Paragraph 54(3)(a)

Omit “\$4,000”, substitute “\$4,200”.

46 Subsection 55(1)

Omit “\$4,000”, substitute “\$4,200”.

47 Paragraph 55(3)(a)

Omit “\$4,000”, substitute “\$4,200”.

48 Subsection 59(2)

Omit “1 July 2023”, substitute “1 July 2024”.

49 Paragraph 59(4)(a)

Omit “1 July 2023”, substitute “1 July 2024”.

50 Subsection 60(1)

Repeal the subsection, substitute:

(1) The *indexation factor* is:

$$\frac{\text{Sum of the index numbers for the 4 quarters in the year ending on 31 March just before the start of the relevant financial year}}{\text{Sum of the index numbers for the 4 quarters in the year ending on 31 March in the financial year before the financial year in which this subsection commences}}$$

51 At the end of Part 6

Add:

Division 4—Transitional matters relating to the Foreign Acquisitions and Takeovers Fees Imposition Amendment Act 2024

67 Application of amendments

- (1) Subject to subsection (2), the amendments of this instrument made by the amending Act apply in relation to fees that become payable on or after the commencement of those amendments.
- (2) To the extent the amendments made by the amending Act relate to vacancy fees, the amendments apply in relation to vacancy years starting on or after the commencement of those amendments, whether the dwelling in respect of which a fee is payable is acquired before, on or after that commencement.

Note: Vacancy fees are payable in relation to residential land acquired on or after 7.30 pm on 9 May 2017: see item 12 of Schedule 3 to the *Treasury Laws Amendment (Housing Tax Integrity) Act 2017*.

(3) To avoid doubt, if the amending Act commences after 1 July 2024, the indexation required by subsection 59(2) of the *Foreign Acquisitions and Takeovers Fees Imposition Regulations 2020*, as amended by the amending Act, applies on the first 1 July that occurs after that commencement.

(4) In this section:

amending Act means the *Foreign Acquisitions and Takeovers Fees Imposition Amendment Act 2024*.

[Minister's second reading speech made in—
House of Representatives on 7 February 2024
Senate on 26 February 2024]

(8/24)
