

EXPOSURE DRAFT

2019-2020

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

EXPOSURE DRAFT

Foreign Acquisitions and Takeovers Fees Imposition Amendment Bill 2020

No. , 2020

(Treasury)

**A Bill for an Act to amend the *Foreign Acquisitions
and Takeovers Fees Imposition Act 2015*, and for
related purposes**

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1 **A Bill for an Act to amend the Foreign Acquisitions**
2 **and Takeovers Fees Imposition Act 2015, and for**
3 **related purposes**

4 The Parliament of Australia enacts:

5 **1 Short title**

6 This Act is the *Foreign Acquisitions and Takeovers Fees*
7 *Imposition Amendment Act 2020*.

8 **2 Commencement**

9 (1) Each provision of this Act specified in column 1 of the table
10 commences, or is taken to have commenced, in accordance with

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1 column 2 of the table. Any other statement in column 2 has effect
2 according to its terms.

3

Commencement information

Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	The later of: (a) the day this Act receives the Royal Assent; and (b) the day Schedule 1 to the <i>Foreign Acquisitions and Takeovers Legislation Amendment Act 2020</i> commences. However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	

4 Note: This table relates only to the provisions of this Act as originally
5 enacted. It will not be amended to deal with any later amendments of
6 this Act.

7 (2) Any information in column 3 of the table is not part of this Act.
8 Information may be inserted in this column, or information in it
9 may be edited, in any published version of this Act.

10 3 Schedules

11 Legislation that is specified in a Schedule to this Act is amended or
12 repealed as set out in the applicable items in the Schedule
13 concerned, and any other item in a Schedule to this Act has effect
14 according to its terms.

1 **Schedule 1—Amendments**
2

3 ***Foreign Acquisitions and Takeovers Fees Imposition Act***
4 ***2015***

5 **1 Subsection 4(1)**

6 Repeal the following definitions:

- 7 (a) definition of *base amount*;
8 (b) definition of *base financial year*;
9 (c) definition of *indexed amount*;
10 (d) definition of *index number*;
11 (e) definition of *internal reorganisation*;
12 (f) definition of *quarter*.

13 **2 Part 2**

14 Repeal the Part, substitute:

15 **Part 2—Imposition and amounts of fees**
16

17 **5 Imposition of fees**

18 A fee payable under:

- 19 (a) Part 6 (fees in relation to actions); or
20 (b) Part 6A (vacancy fees for foreign acquisitions of residential
21 land);

22 of the Foreign Acquisitions Act is imposed as a tax by this section.

23 **6 Amounts of fees**

24 (1) The amount of a fee imposed by section 5 is the amount worked
25 out in accordance with regulations made for the purposes of this
26 subsection.

27 (2) Without limiting subsection (1), the regulations may do one or
28 more of the following:

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Schedule 1 Amendments

- 1 (a) specify an amount or a method for determining an amount;
2 (b) specify different amounts or methods for:
3 (i) different kinds of fees; or
4 (ii) different kinds of persons liable to pay a kind of fee; or
5 (iii) different kinds of circumstances giving rise to the
6 liability to pay a kind of fee;
7 (c) specify a nil amount, or a method resulting in a nil amount;
8 (d) specify a method for a kind of fee when such a fee is one of 2
9 or more fees payable in relation to a single agreement;
10 (e) specify a method for a kind of fee payable in relation to an
11 action if that action is covered by more than one provision of
12 the Foreign Acquisitions Act or Foreign Acquisitions
13 Regulation (because the action is an action of more than one
14 kind);
15 (f) specify a method for a kind of fee that:
16 (i) initially determines an amount; and
17 (ii) later determines a lower replacement amount (including
18 a nil amount) if specified circumstances arise after the
19 fee becomes payable.

20 Paragraphs (c) to (f) do not limit paragraph (b).

21 Note: A method for determining an amount could, for example, include:
22 (a) indexation; or
23 (b) providing for a lower amount if certain circumstances exist; or
24 (c) reducing the amount to nil if another person who is jointly and
25 severally liable for the fee pays the fee.

26 *Cap on the amount of a fee*

- 27 (3) The amount of a fee imposed by section 5 must not exceed \$[X].

3 Application of amendments

29 The amendments made by this Schedule apply in relation to fees that
30 become payable on or after 1 January 2021.

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