



Transitional Guide

Register of Foreign Ownership of Australian Assets

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- 1 July 2023 is the commencement date for the Register of Foreign Ownership of Australian Assets (the **Register**).
 - The Australian Taxation Office will administer the Register. The Commissioner of Taxation is the Registrar of the Register.
 - This Transitional Guide explains the interaction between previous existing notification obligations for foreign persons under the *Foreign Acquisitions and Takeovers Act 1975* (the **Act**), the *Register of Foreign Ownership of Water or Agricultural Land Act 2015* (the **Old Register Act**), residential land reporting conditions imposed in no objection notifications and exemption certificates; and new obligations under the Register.
 - The information provided is general advice only and you should take your particular circumstances into account when determining how the law applies to you.

Note

In some cases, Treasury will not take compliance action against foreign persons who fail to notify the Treasurer or Treasury of an event under no objection notification or exemption certificate reporting conditions but who instead give a register notice in relation to the same event. For more information, see the *Register of Foreign Ownership of Australian Assets* Guidance Note.

Summary

- In relation to actions taken from 1 July 2023:
 - For actions that are within the scope of the Register (see the *Register of Foreign Ownership of Australian Assets* Guidance Note), notification obligations will be to the Registrar.
 - For actions that are outside the scope of the Register, but are within the scope of sections 98C, 98D, and 98E of the Act, notification obligations will be to the Treasurer.
- In relation to actions taken before 1 July 2023:
 - For situations that relate to actions that were previously reported to the Treasurer under sections 98C or 98D of the Act, reporting obligations to the Treasurer under section 98E of the Act will continue to exist, and no Register reporting obligations will arise (for example, if an earlier acquisition was reported to the Treasurer, a post-1 July 2023 disposal will also be reported to the Treasurer, not the Registrar).
 - If a notification obligation arose before 1 July 2023 under section 98C or 98D of the Act in relation to an action, but no notification under any of sections 98C, 98D or 98E of the Act was given to the Treasurer before 1 July 2023, then:
 - (1) if the action is within the scope of the Register, it will need to be reported to the Registrar within 30 days of 1 July 2023.
 - (2) if the action is not within the scope of the Register, it will need to be reported to the Treasurer under section 98C or 98D of the Act (and further situations reported under section 98E of the Act as required).
- Existing registrations on the superseded registers (see section A below) will be transferred to the Register and when follow-up notification obligations arise, they will be to the Registrar.

A: Replaced registers

The Register will replace:

- the Register of Foreign Ownership of Residential Land (the **Residential Land Register**); and
- the Register of Foreign Ownership of Agricultural Land (the **Agricultural Land Register**); and
- the Register of Foreign Ownership of Water Entitlements (the **Water Entitlements Register**).

B: Interests required to be notified to Registrar of replaced register

Residential Land Register

The ATO administers the Residential Land Register.¹

From 1 July 2023, acquisitions of residential land within the scope of the Register must be reported to the Registrar.

Transitional rules, which will be made before 1 July 2024, are expected to provide:

- for the transfer of information relating to interests registered on the Residential Land Register to the Register; and
- for registered circumstances to exist in relation to persons who have previously registered an interest on the Residential Land Register.

These transitional rules will be published on the Federal Register of Legislation.

Agricultural Land Register and Water Entitlements Register

The ATO administers the Agricultural Land Register and the Water Entitlements Register.

Interests registered on either the Agricultural Land Register or the Water Entitlements Register (usually through a form on the ATO website) will be transferred to the Register. Ongoing notification obligations will be to the Registrar.

If you have registered or will register an interest on the Agricultural Land Register or the Water Entitlements Register prior to 1 July 2023, you will have obligations to the Registrar after that date (because of the creation of a registered circumstance).²

If you were required to register an interest on either the Agricultural Land Register or the Water Entitlements Register prior to 1 July 2023 but did not do so, you will be required to give a register notice to the Registrar within 30 days of 1 July 2023.³

¹ Obligations to register an interest on the Residential Land Register generally arise under conditions imposed in an exemption certificate, no objection notification, or notice imposing conditions.

² See sections 20 and 21 of Schedule 3 to the *Foreign Investment Reform (Protecting Australia's National Security) Act 2020* (the **Reform Act**).

³ See sections 22 and 23 of Schedule 3 to the Reform Act.

C: Notification obligations under sections 98C, 98D, and 98E of the Act

Continuing other notification requirements for situations relating to core Part 3 actions taken before 1 July 2023

If you:

- received a no objection notification or exemption certificate which specifies a core Part 3 action⁴ on or after 1 January 2021 but before 1 July 2023, and
- took the action before 1 July 2023, and
- notify the Treasurer before 1 July 2023:
 - that you have taken the action in accordance with subsections 98C(2) or 98D(2) of the Act, and/or
 - of a situation arising in relation to the action which results in you no longer holding any part of the relevant interest, under subsection 98E(3) of the Act,

then you are not required to give a register notice.⁵ You must still give a notice to the Treasurer when a situation mentioned in subsection 98E(2) of the Act arises if you have not already done so—for example, when you cease to have a direct interest in an Australian entity (where applicable).⁶ For instructions on how to give a notice under sections 98C, 98D or 98E of the Act, go to the [Foreign Investment website](#).

⁴ A core Part 3 action is a significant action, a notifiable national security action, or a reviewable national security action that is either notified to the Treasurer or in respect of which the Treasurer has given notice under subsection 66A(4) of the Act.

⁵ See subsection 81(3) of the *Foreign Acquisitions and Takeovers Regulation 2015* (the **Regulation**).

⁶ See subsection 81(2) of the Regulation.

Register requirements for certain core Part 3 actions taken before 1 July 2023

If:

- you received a no objection notification or exemption certificate that relates to a core Part 3 action on or after 1 January 2021 but before 1 July 2023, and
- you took the action before 1 July 2023, and
- you would be required to give a register notice in relation to the action if the action were taken from 1 July 2023, and
- the 30-day period within which you were required to notify the Treasurer that you had taken the action in accordance with subsection 98C(2) or 98D(2) of the Act started before 1 July 2023, and
- you do not notify the Treasurer before 1 July 2023:
 - that you have taken the action in accordance with subsections 98C(2) or 98D(2) of the Act, or
 - of a situation arising in relation to the action which results in you no longer holding any part of the relevant interest in accordance with subsection 98E(3) of the Act,

then you are required to give a register notice within 30 days of 1 July.⁷ A registered circumstance will arise when you give the register notice.⁸

Previous non-compliance

Non-compliance with sections 98C, 98D, and/or 98E of the Act that occurred before 1 July 2023 remains a breach of the Act and compliance action may be taken with respect to such non-compliance.

Further information

Important notice: This Transitional Guide provides a summary of the relevant law. As this Guide tries to avoid legal language wherever possible it may include some generalisations about the law. Some provisions of the law referred to have exceptions or important qualifications, not all of which may be described here. The Commonwealth does not guarantee the accuracy, currency or completeness of any information contained in this document and will not accept responsibility for any loss caused by reliance on it. Your particular circumstances must be taken into account when determining how the law applies to you. This Transitional Guide is therefore not a substitute for obtaining your own legal advice.

⁷ See subsections 81(3) and 81(6) of the Regulation.

⁸ See subsection 81(4) of the Regulation.