



AUSTRALIA'S FOREIGN RELATIONS (STATE AND TERRITORY ARRANGEMENTS) ACT 2020

FACT SHEET 1—OVERVIEWⁱ

Australia's Foreign Relations (State and Territory Arrangements) Act 2020 (the Act) fosters a systematic and consistent approach to foreign engagement across all levels of Australian government. It creates a scheme to ensure that arrangements between State or Territory governments and foreign government entities do not adversely affect Australia's foreign relations and are not inconsistent with Australia's foreign policy.

What does the scheme address?

The Foreign Arrangements Scheme (the scheme) deals with **foreign arrangements**. These are written arrangements, agreements, contracts, understandings or undertakings between State and Territory entities and foreign entities. They may be legally-binding or not legally-binding.

The scheme provides a process for States and Territories and their entities to notify the Minister for Foreign Affairs (the Minister) if they propose to enter, or enter, a foreign arrangement.

It creates obligations in respect of both future arrangements and existing arrangements. It also deals with subsidiary arrangements entered into for the purposes of implementing a foreign arrangement.

Arrangements are notified to the Minister through the online portal: www.foreignarrangements.gov.au.

Who is covered by the scheme?

The scheme covers State/Territory entities, including:

- States and Territories, and State and Territory governments, departments and agencies (**core State/Territory entities**), and
- local governments, and Australian public universities (**non-core State/Territory entities**).

The scheme also covers foreign entities, including:

- a foreign country, its national government and a department or agency of that national government (**core foreign entities**), and
- a province, state, self-governing territory, region, local council, municipality or other political subdivision of a foreign country (including its governments, departments, agencies), an authority of a foreign country established for a public purpose, and a foreign university that does not have institutional autonomy (**non-core foreign entities**).

The scheme does not cover arrangements by corporations that operate on a commercial basis, including where the corporation is wholly or partly state-owned. Corporations that do not operate on a commercial basis are within the scheme where they are a State/Territory entity or foreign entity.

What does the scheme do?

The scheme creates an 'approval' process for arrangements known as 'core foreign arrangements' and a 'notification' process for arrangements known as 'non-core foreign arrangements'.

- A **core foreign arrangement** is an arrangement between a core State/Territory entity *and* a core foreign entity.
- A **non-core foreign arrangement** is an arrangement between:
 - a core State/Territory entity *and* a non-core foreign entity
 - a non-core State/Territory entity *and* a core foreign entity, or
 - a non-core State/Territory entity *and* a non-core foreign entity.



Approval of prospective core foreign arrangements

Commencing 10 March 2021, the Minister must be notified of a proposal to negotiate or enter a core foreign arrangement. If the arrangement is entered into, the Minister must also be notified about that within 14 days.

The Minister must consider the proposed negotiation or entry into the arrangement, and make a decision whether to approve. The Minister must approve if satisfied that the proposed negotiation or arrangement:

- would not adversely affect, or would be unlikely to adversely affect, Australia's foreign relations; and
- would not be, or would be unlikely to be, inconsistent with Australia's foreign policy.

The Minister must make a decision within 30 days or the Minister is taken to have given approval.

If a core State/Territory entity enters an arrangement without approval, then the arrangement will be invalid and unenforceable, be required to be terminated, or not be in operation (depending on the arrangement).

Notification of prospective non-core foreign arrangements

Commencing 10 March 2021, the Minister must also be notified of a proposal to enter a non-core foreign arrangement. If the arrangement is entered into, the Minister must also be notified about that within 14 days.

The Minister may make a declaration prohibiting a State/Territory entity from negotiating or entering a non-core arrangement if satisfied that the negotiation or arrangement:

- would adversely affect, or would be likely to adversely affect, Australia's foreign relations; or
- would be, or would be likely to be, inconsistent with Australia's foreign policy.

If a non-core arrangement is entered into in contravention of a declaration, the Minister may make a further declaration that the arrangement is invalid and unenforceable, required to be terminated, or not in operation.

Foreign arrangements already in operation

State or Territory entities were required to notify the Minister of pre-existing arrangements already in operation. Pre-existing foreign arrangements are arrangements that have been entered into on or before 9 March 2021.

- Core foreign arrangements were required to be notified by 10 March 2021.
- Non-core foreign arrangements were required to be notified by 10 June 2021.

Similar to prospective arrangements, the Minister may make a declaration that such an arrangement is invalid and unenforceable, required to be varied or terminated, or not in operation if satisfied the arrangement:

- would adversely affect, or would be likely to adversely affect, Australia's foreign relations; or
- would be, or would be likely to be, inconsistent with Australia's foreign policy.

Public register

The public register includes information about foreign arrangements, including whether a decision has been made by the Minister in relation to the arrangement. Certain sensitive material may not be required to be included on the register.

ⁱ * This FACT SHEET sets out some of the requirements of the Australia's Foreign Relations (State and Territory Arrangements) Act 2020. It is not intended to be comprehensive and should not be relied on as a definitive interpretation of the Act. It is also not intended as legal advice. Readers should rely on the substantive provisions of the Act as enacted by Parliament, and any applicable rules, in assessing their obligations and seek independent legal advice.

