



WHAT IS THE FOREIGN ARRANGEMENTS SCHEME

The Foreign Arrangements Scheme (the Scheme) commenced on 10 December 2020 following the passage of the *Australia's Foreign Relations (State and Territory Arrangements) Act 2020* (the Act).

The Scheme provides transparency of subnational arrangements with foreign government entities, and ensures they are consistent with Australia's foreign policy and do not adversely affect Australia's foreign relations.

WHO IS COVERED BY THE SCHEME?

The Scheme covers state/territory and foreign entities and categorises them into core and non-core entities.

	State/Territory Entities	Foreign Entities
Core	- States and Territories - State and Territory governments, departments, and agencies	- A foreign country - The national government of a foreign country - A department or agency of a national government of a foreign country
Non-Core	- Local governments - Australian public universities	- 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 - A foreign university that does not have institutional autonomy - An entity prescribed by the Rules

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 scope of the Scheme where they are a state/territory entity or a foreign entity.

WHAT IS AN ARRANGEMENT?

An arrangement is any written arrangement, agreement, contract, understanding or undertaking

- whether or not it is legally binding
- whether or not it is made in Australia
- whether it is entered before, on or after the commencement date of the Act (10 March 2021).

The Scheme creates:

- an 'approval' process for 'core foreign arrangements', and
- a 'notification' process for 'non-core foreign arrangements'.

WHAT IS A CORE/NON-CORE FOREIGN ARRANGEMENT?

A core arrangement is one between a core state/territory entity and a core foreign entity. All other arrangements are non-core.

	Core Foreign Entity	Non-Core Foreign Entity
Core State/Territory Entity	Core Foreign Arrangement	Non-Core Foreign Arrangement
Non-Core State/Territory Entity	Non-Core Foreign Arrangement	Non-Core Foreign Arrangement

REQUIREMENTS OF THE SCHEME

Stage	Core Arrangement	Non-Core Arrangement
Negotiation	<u>Approval to Negotiate:</u> State/territory entities are required to seek the Foreign Minister's <i>approval to negotiate</i> a core foreign arrangement.	<u>Notification of Proposal to Negotiate:</u> There is no requirement to notify the Foreign Minister of a <i>proposal to negotiate</i> a non-core foreign arrangement.
Before Entry	<u>Approval to Enter:</u> State/territory entities are required to seek the Foreign Minister's <i>approval to enter</i> into a core foreign arrangement.	<u>Notification of Proposal to Enter:</u> State/territory entities are required to notify the Foreign Minister of a <i>proposal to enter</i> a non-core foreign arrangement.
After Entry	<u>Notification of Entry:</u> State/territory entities are required to provide the Foreign Minister with a copy of each core foreign arrangement they have entered into <i>within 14 days of entry</i> .	<u>Notification of Entry:</u> State/territory entities are required to provide the Foreign Minister with a copy of each non-core foreign arrangement they have entered into <i>within 14 days of entry</i> .

CORE ARRANGEMENTS – 30-DAY TIMEFRAME FOR DECISIONS

The Foreign Minister must make a decision on whether to approve negotiation of or entry into a proposed core arrangement within 30 calendar days from the day notification is given. This means state and territory entities need to factor in the 60 days required to seek approval for both the proposal to negotiate (30 days) and the proposal to enter (30 days) a core foreign arrangement.

If the Minister does not make a decision within 30 days, the Minister is taken to have given approval.

FOREIGN ARRANGEMENTS THAT ARE IN OPERATION

The Foreign Minister may make a *declaration* that an arrangement that is in operation is invalid and unenforceable, required to be terminated, or is not in operation, if they are satisfied that the arrangement:

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

Public Register

The Act requires the Foreign Minister to keep a Public Register of information about foreign arrangements, including whether a decision has been made by the Minister in relation to the arrangement. Certain sensitive information (such as commercially sensitive information) may be excluded from publication on the Register.