

Legislative Statement: Overseas Investment (Forestry) Amendment Bill

– First Reading

Presented to the House of Representatives in accordance with Standing Order 272

Overview

The Overseas Investment Act 2005 (the Act) is New Zealand's principal tool for regulating foreign investment. It seeks to balance supporting high-quality investment with ensuring that the government has the tools available to manage risks.

The primary policy proposal in this Bill is to ensure that the conversion of land to production forestry by overseas investors continues to bring broad benefits to New Zealand when consent is required under the Act.

The Bill also makes several minor changes and technical clarifications to improve the Act's existing forestry provisions.

Change of requirements for overseas investment relating to forestry conversions

To achieve the policy outcome, the Bill removes forestry conversions from the special test relating to forestry activities, commonly known as the 'special forestry test.' Instead, it requires forestry conversions to be considered under the 'benefit to New Zealand' test to obtain consent. The benefit to New Zealand test also applies if the investment involves farm land (that is, the Act's more stringent farm land benefit test will not apply to these forestry conversions). This applies to conversions where the:

- forestry activities relate to production forestry irrespective of the species of tree or the harvest length of a tree, and
- farm land will be used exclusively, or nearly exclusively, for these forestry activities. 'Nearly exclusively' allows for minor and ancillary use of the land beyond production forestry where this is appropriate (for example, maintaining an area of indigenous forest not suitable for planting a crop of trees).

Conversions relating to carbon forestry were never considered under the special forestry test and the Bill does not change this position.

Transitional provisions

The overarching intent of the Bill's transitional provisions is to allow investors who have taken substantive steps towards completing a transaction in reliance on the old rules to continue to proceed under these. As such, the Bill proposes that investors who have applied for consent or entered into a transaction conditional on consent before the Bill's commencement can proceed under the old rules. Investors who have obtained a standing consent will not be impacted by the Bill.

Minor changes and technical clarifications

The Bill makes some minor changes and technical clarifications to improve the operation of the Act's forestry provisions.

It allows non-associates of an overseas investor to occupy existing dwellings on forestry land. This provides greater flexibility than the current rule (which requires dwellings only to be used for forestry activities). This will, for example, allow existing tenants to remain in their homes if the property is on forestry land acquired by an overseas investor.

In addition, the Bill repeals the effectively redundant 'modified benefits test for forestry activities' that has never been used.

It also clarifies that the Act's definition of forestry activities requires an intention to harvest regardless of the type of the species or harvest length.

Under the Act, overseas investors can acquire up to 1,000 hectares of forestry cutting rights before they require consent. The Bill clarifies that forestry rights granted consent under the Act do not count towards this threshold. It also clarifies that only activities directly connected to the forestry rights being acquired by an investor are captured by the Act's definition of relevant land.