OVERSEAS INVESTMENT AMENDMENT REGULATIONS 1999

MICHAEL HARDIE BOYS, Governor-General

ORDER IN COUNCIL

At Wellington this 8th day of November 1999

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to section 14 of the Overseas Investment Act 1973, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

ANALYSIS

REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Overseas Investment Amendment Regulations 1999, and are part of the Overseas Investment Regulations 1995* ("the principal regulations").

(2) These regulations come into force on the 28th day after the date of their notification in the *Gazette*.

*S.R. 1995/292
Amendment 1997: S.R. 1997/155
Amendment (No. 2) 1997: S.R. 1997/318

2. Interpretation—Regulation 2 (1) of the principal regulations is amended by inserting, in their appropriate alphabetical order, the following definitions:

" 'Farming' includes the use of land for agricultural, horticultural, or pastoral purposes, or for keeping bees, poultry, or livestock:

" 'Forestry right' has the same meaning as in section 2 of the Forestry Rights Registration Act 1983:

" 'Urban land' means land in an urban area that—

"(a) Is used for commercial, industrial, or residential purposes; and

"(b) Is not used, principally or exclusively, for any type of farming:".

3. Transactions not involving acquisition of land that require consent—(1) Regulation 5 (1) of the principal regulations is amended by omitting from paragraph (a) (vi) and (vii), and also from paragraphs (b) and (c), the expression "$10 million" wherever it occurs, and substituting in each case the expression "$50 million".

(2) Regulation 5 (2) (b) is amended by omitting the expression "$10 million", and substituting the expression "$50 million".

4. Transactions not requiring consent—(1) Regulation 9 of the principal regulations is amended by inserting, after paragraph (f), the following paragraphs:

"(fa) The sale or transfer to an overseas person of land to which the first item of Part I of the First Schedule applies, being urban land:

"(fb) The acquisition by an overseas person of specified securities or rights or interests in specified securities of any person that has an estate or interest in land to which the first item of Part I of the First Schedule applies, being urban land:".

(2) Regulation 9 (g) of the principal regulations is amended by omitting the word "solely".

(3) Regulation (9) of the principal regulations is amended by adding the following paragraphs:

"(t) The acquisition by an overseas person of—

"(i) An estate or interest in land that is a forestry right, or a right to harvest a crop of trees on land granted under a contract or arrangement; or

"(ii) Specified securities or rights or interests in specified securities of any person that has an estate or interest in land that is a forestry right, or a right to harvest a crop of trees on land granted under a contract or arrangement:

"(u) The acquisition by an overseas person of—

"(i) An estate or interest in land that is an easement that confers the right to transmit or convey electricity, water, gas, telecommunications, radio communications, other electronic communications, drainage, sewage, petroleum, or geothermal energy; or

"(ii) Specified securities or rights or interests in specified securities of any person that has an estate or interest in land that is an easement that confers the right to transmit or convey electricity, water, gas, telecommunications, radio communications, other electronic communications, drainage, sewage, petroleum, or geothermal energy."

MARIE SHROFF,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on the 28th day after the date of their notification in the *Gazette*, amend the Overseas Investment Regulations 1995 ("the principal regulations"). In particular, they—

- Increase the threshold at which non-land investments require consent under the principal regulations from $10 million to $50 million
- Exclude urban land that is not used for farming from the requirement to obtain consent under the principal regulations
- Exclude forestry rights from the requirement to obtain consent under the principal regulations
- Exclude easements that confer rights to transmit or convey services, such as electricity, water, and gas from the requirement to obtain consent under the principal regulations.

Regulation 2 inserts new definitions of "farming", "forestry right", and "urban land".

Regulation 3 increases the threshold at which transactions not involving acquisition of land become subject to the principal regulations, from $10 million to $50 million.

Regulation 4 excludes from the requirement to obtain consent under regulation 8 of the principal regulations acquisitions by overseas persons of—

- Urban land not used for farming
- Forestry rights
- Easements that confer rights to convey or transmit specified services.

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These regulations are administered in the Overseas Investment Commission.