
Changes to who decides whether an overseas investor can buy sensitive assets in New Zealand

The Overseas Investment Act 2005 requires overseas investors to apply to the Overseas Investment Office (OIO) for consent to buy certain types of assets in New Zealand – such as "sensitive land" (including farm land) and "significant business assets".

The Act requires relevant Ministers to be the decision makers for those applications – but the Ministers can delegate their decision-making powers to the OIO.

On 8 April 2024 a new delegation letter was issued by the relevant Ministers. This delegation letter makes a material change to who decides whether an overseas person can invest in New Zealand. This change in approach is consistent with the coalition agreement between the National Party and Act Party where they agreed to amend the Act to limit ministerial decisions and to make more timely decisions.

Before 8 April 2024, some overseas investment decisions were required to be made by the relevant Ministers and not delegated to the officials within the OIO.

From 8 April 2024, the relevant Ministers have delegated all their overseas investment decision making powers to the OIO (except for applications requiring a national interest assessment). The Ministers still retain their overriding discretion to "call in" a delegated decision and make it themselves – but we expect that will be seldom used.

It remains to be seen whether this change in decision making from the Ministers to the OIO will result in the intended faster processing times. But any streamlining of the OIO process will be well received by overseas investors and the New Zealanders who are selling their assets.

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