

Changes to the Overseas investment Act

Amendments to the Overseas Investment Act 2005 balance the important role overseas investment will play in supporting New Zealand's economic growth and recovery, while also seeking to ensure New Zealand's interests are protected.

Changes to the Overseas Investment Act



Read the video transcript (<http://www.linz.govt.nz/overseas-investment/changes-overseas-investment-act-video-transcript>)

Overseas investment is a big contributor to New Zealand's economy. It improves productivity and employment, it enhances export opportunities, and it brings new ideas, innovations and relationships.

The global economic impact of COVID-19 will see some businesses looking to overseas markets to access capital in a bid to recover, grow and secure a future for their business and their staff. The key is making sure New Zealand is attracting and encouraging responsible overseas investors who want to invest in a way that also brings benefits to New Zealanders.

To manage this, the Government has enacted the Overseas Investment (Urgent Measures) Amendment Act 2020. This Act amends the Overseas Investment Act 2005 to balance the important role overseas investment will play in supporting New Zealand's economic growth and recovery, while also seeking to ensure New Zealand's interests are protected.

It puts the right checks and balances in place to protect businesses important to our national security, economy, and communities.

The key amendments are:

Temporary emergency notification requirement (#notification)

- a new national interest assessment for some transactions (#national-interest)
- simplifying the regime for low-risk transactions (#simplifying)
- stronger enforcement powers (#enforcement).

The changes introduce a notification pathway for business transactions involving the acquisition of a controlling interest, alongside existing consent pathways for significant business and sensitive land assets.

Definition of overseas person (<http://www.linz.govt.nz/overseas-investment/about-overseas-investment-office/glossary-overseas-investment-terms#O>)

Overseas Investment in New Zealand: Urgent Measures

Changes to support responsible economic recovery

What's changing and why

Overseas investment will support New Zealand's economic recovery post COVID-19, so businesses can continue to grow and evolve, and keep more New Zealanders in jobs. Like all countries, New Zealand relies on overseas investment as a vital contributor to economic growth. But we need to make sure overseas investment is responsible and benefits New Zealand. The Overseas Investment (Urgent Measures) Amendment Act 2020 supports the Government's business response package while ensuring the right checks and balances are in place to protect those businesses important to our national security, economy, and communities.

Role of the Overseas Investment Office

The Overseas Investment Office, part of Land Information New Zealand, regulates overseas investment in New Zealand's sensitive land, significant business assets and fishing quota. It is responsible for applying the Overseas Investment Act and will be operating the changes proposed in the Overseas Investment (Urgent Measures) Amendment Act 2020. The Overseas Investment Office informs investors and advisors, assesses applications, recommends and makes decisions, and monitors and enforces consents.

Overseas investment – what's changing

What's changing	Who's involved	What action to take
<p>Temporary emergency notification required</p> <p>Overseas investors will need to notify the Overseas Investment Office of all overseas investments resulting in more than 25% overseas ownership of a New Zealand business or its assets, or an increase to an existing holding beyond 50, 75 or 100% being acquired. These transactions will be assessed to ensure they are in line with New Zealand's national interests.</p>	<p>Overseas investors that meet requirements and New Zealand businesses seeking overseas investment</p>	<p>Overseas investors and businesses seeking investment should get advice from their advisors, for example a lawyer or accountant. Notifications will commence from 16 June via www.linz.govt.nz/OIOnewrules.</p> <p>If you are unsure whether you need to notify, or if you have any questions, please email the Overseas Investment Office.</p>
<p>New national interest assessment</p> <p>A new national interest assessment will also be applied to transactions that already need consent. Whether it applies depends on whether it is a strategically important asset, a non-New Zealand government investor, or an area of specific national interest. This will ensure that overseas investments in sensitive and high-risk assets are not contrary to New Zealand's national interests.</p>	<p>Overseas investors currently screened</p>	<p>Overseas investors should seek advice from a legal advisor about what this change may mean for an application – the assessment will only be applied in limited situations as it is intended to be used rarely.</p>
<p>Simplified screening regime</p> <p>The existing rules have been simplified so that some low risk transactions no longer need consent. These changes will help listed companies and investments that adjoin sensitive land.</p> <p>Examples involve excluding some low risk transactions such as certain types of lending from screening, and reducing the amount of information that investors need to provide in their applications, amongst other things.</p>	<p>Overseas investors</p>	<p>Overseas investors should seek advice from a legal advisor. If you have an application already with the Overseas Investment Office, your assessor will contact you over the coming weeks if these law changes may affect your application.</p>

Stronger enforcement powers

The Overseas Investment Office also gets stronger enforcement powers which supports the Office to act against overseas investors who don't comply.

For more information, go to www.linz.govt.nz/OIOnewrules, email oio@linz.govt.nz or call 0800 665 463 (New Zealand only) or +64 4 460 0110 (international callers)

06/20 Disclaimer: This outline is intended to provide general information only and does not constitute legal or other advice.

www.linz.govt.nz/OIOnewrules

(http://www.linz.govt.nz/system/files_force/media/doc/oio_urgent_measures_explainer_12june20_final.pdf?download=1)

Urgent measures explainer (PDF | 232 KB)

(http://www.linz.govt.nz/system/files_force/media/doc/oio_urgent_measures_explainer_12june20_final.pdf?download=1)

Investing in New Zealand (PDF | 165.43 KB)

(http://www.linz.govt.nz/system/files_force/media/doc/oio_investing_in_nz_15june20_final_with_urgent_measures.pdf?download=1)

Investment Pathways (PDF | 231.83 KB)

(http://www.linz.govt.nz/system/files_force/media/doc/oio_investment_pathways_11june20_final_with_urgent_measures.pdf?download=1)

Our ecosystem (PDF | 284.44 KB) (<http://www.linz.govt.nz/file/21889/download?token=zicJtlqL>)

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Temporary emergency notification requirement

Overseas investors will now need to notify the Overseas Investment Office of all overseas investments resulting in:

- more than 25% overseas ownership of a New Zealand business or its assets; or
- an increase to an existing holding up to or beyond 50% or 75% or up to 100%.

These transactions will be assessed to make sure they are in line with New Zealand's national interests.

Investors can submit their notification online.

[More about the temporary emergency notification requirement \(//www.linz.govt.nz/node/16592/\)](https://www.linz.govt.nz/node/16592/)

[Temporary emergency notification form \(https://oio.linz.govt.nz/notification\)](https://oio.linz.govt.nz/notification)

[Read the Emergency Notification Form authorisation notice \(//www.linz.govt.nz/file/21887/download?token=o8RC7Lmi\)](https://www.linz.govt.nz/file/21887/download?token=o8RC7Lmi)

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National interest assessment

A new national interest assessment may be applied to transactions involving:

- strategically important businesses
- an overseas government investor
- an area of specific national interest.

This assessment only applies to some transactions, and is intended to be used rarely. The assessment will make sure that overseas investments in sensitive and high-risk assets are not contrary to New Zealand's national interests.

[More about the national interest assessment \(//www.linz.govt.nz/overseas-investment/applying-for-consent-purchase-new-zealand-assets/preparing-your-application-oio/national-interest-assessment\)](https://www.linz.govt.nz/overseas-investment/applying-for-consent-purchase-new-zealand-assets/preparing-your-application-oio/national-interest-assessment)

[Foreign Investment Policy and National Interest Guidance from Treasury \(https://treasury.govt.nz/publications/guide/foreign-investment-policy-and-national-interest-guidance\)](https://treasury.govt.nz/publications/guide/foreign-investment-policy-and-national-interest-guidance)

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Simplifying the regime for low-risk transactions

We have simplified the regime for low risk transactions to make investing easier, including no longer requiring a consent application for:

- some land that adjoins sensitive land
- certain New Zealand listed issuers

[Urgent measures explainer A3 \(PDF | 232 KB\)](#)

https://www.lin.govt.nz/system/files_force/media/doc/oio_urgent_measures_explainer_12june20_final.pdf?download=1

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Stronger enforcement powers

The Overseas Investment Office now has stronger enforcement powers to act against investors who do not comply. Changes in the Act include:

- increasing our ability to act against those that break the rules, including being able to seek injunctions and accept enforceable undertakings
- increasing maximum fixed civil pecuniary penalties from \$300,000 to \$500,000 for individuals and \$10 million for corporates
- introducing a range of new tools that will manage investors who pose significant national security and public order risk, including (in extreme cases) placing a business into statutory management to cut off an investor's access and control.

New provisions accompanying these changes make sure that natural justice rights and classified security information can both be protected during any court proceedings.

[Enforcement](https://www.lin.govt.nz/overseas-investment/enforcement) (<https://www.lin.govt.nz/overseas-investment/enforcement>)

[Contact us](https://oio.lin.govt.nz/contact-us) (<https://oio.lin.govt.nz/contact-us>)

Last Updated: 16 June 2020

Attachments

Investing in New Zealand (https://www.linz.govt.nz/system/files_force/media/doc/oio_investing_in_nz_15june20_final_with_urgent_measures.pdf?download=1)

PDF | 165.43 KB

Urgent measures explainer (https://www.linz.govt.nz/system/files_force/media/doc/oio_urgent_measures_explainer_12june20_final.pdf?download=1)

PDF | 232 KB

Investment pathways

(https://www.linz.govt.nz/system/files_force/media/doc/oio_investment_pathways_11june20_final_with_urgent_measures.pdf?download=1)

PDF | 231.83 KB

Signed directive letter - 8 June 2020 (https://www.linz.govt.nz/system/files_force/media/doc/signed_directive_letter_8_june.pdf?download=1)

PDF | 796.73 KB

Notice: Requirements for notification of call-in transaction (https://www.linz.govt.nz/system/files_force/media/doc/notice_emergency-notification_20200615.pdf?download=1)

PDF | 122.48 KB

Our ecosystem (https://www.linz.govt.nz/system/files_force/media/doc/oio_our_ecosystem_11june20.pdf?download=1)

PDF | 284.44 KB

