

DRAFT FOR CONSULTATION

Overseas Investment (Forestry Activities) Amendment Regulations 2018

Governor-General

Order in Council

At Wellington this day of 2018

Present:
in Council

These regulations are made under section 61 of the Overseas Investment Act 2005 on the advice and with the consent of the Executive Council and on the recommendation of the Minister of Finance.

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Regulations

1 Title

These regulations are the Overseas Investment (Forestry Activities) Amendment Regulations 2018.

2 Commencement

These regulations come into force on the date on which the Overseas Investment Amendment Act 2018 comes into force.

3 Principal regulations

These regulations amend the Overseas Investment Regulations 2005 (the **principal regulations**).

4 New regulation 28A and cross-heading inserted

After regulation 28, insert:

Benefit test: special test relating to forestry

28A Special test may be applied and requirements to be met

- (1) For the purposes of section 16E(4) of the Act, the benefit to New Zealand test is also met if the relevant Ministers are satisfied of the matters listed in section 16E(4)(a) to (e).
- (2) The requirements for the purposes of section 16E(4)(d) of the Act are as follows:
 - (a) any existing arrangement that is in place on, or in respect of, the relevant land for 1 or more of the following purposes will be maintained throughout the investment period:
 - (i) protecting areas of significant indigenous vegetation or significant habitats of indigenous fauna:
 - (ii) protecting areas of significant habitats of trout, salmon, wildlife protected under section 3 of the Wildlife Act 1953, or game as defined in section 2(1) of that Act:
 - (iii) protecting any historic place, historic area, wāhi tapu, or wāhi tapu area that is entered on the New Zealand Heritage List/Rārangi Kōrero under the Heritage New Zealand Pouhere Taonga Act 2014:
 - (iv) providing access for walkers who are members of the public or any section of the public:
 - (b) if a relevant supply obligation is in place immediately before the overseas investment in sensitive land is made, logs will be supplied as required by the obligation throughout the investment period (so long as the obligation remains in place):
 - (c) if trees are felled on the relevant land during the investment period, new trees will be planted on the relevant land before the end of the investment period to replace the felled trees.

- (3) In subclause (2)(a), **existing**, in relation to an arrangement, means the arrangement is in place immediately before the overseas investment in sensitive land is made.
- (4) In subclause (2)(b), **relevant supply obligation** means a contractual obligation under which logs from trees felled on the relevant land must be supplied to a person who intends to have the logs processed in New Zealand.
- (5) The requirement set out in subclause (6) applies for the purposes of section 16E(4)(e) of the Act if—
 - (a) the relevant land is or includes foreshore or seabed or a bed of a river or lake; and
 - (b) the overseas investment in sensitive land falls within section 12(a) of the Act; and
 - (c) the interest in land described in section 12(a) of the Act is a freehold estate.
- (6) The foreshore or seabed or the riverbed or lakebed must have been offered to the Crown in accordance with regulations 13 to 26.
- (7) In applying regulations 13 to 26 for the purposes of subclause (6), in regulations 15(2) and 23, the reference to the factor set out in section 17(2)(f) of the Act must be read as a reference to the requirement set out in subclause (6).
- (8) Section 16E(9) and (10) of the Act applies for the purposes of this regulation.

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—

- come into force on the date on which the Overseas Investment Amendment Act 2018 (the **2018 Amendment Act**) comes into force; and
- are made under section 61 of the Overseas Investment Act 2005 (the **Act**) for the purposes of section 16E(4) to (8) of the Act (as inserted by the 2018 Amendment Act); and
- amend the Overseas Investment Regulations 2005 (the **principal regulations**).

Regulation 4 inserts new regulation 28A into the principal regulations. New regulation 28A does the following:

- permits the benefit to New Zealand test for an overseas investment in sensitive land relating to forestry to be met in accordance with section 16E(4) of the Act, instead of section 16E(1) (as inserted by the 2018 Amendment Act):

- for the purposes of section 16E(4)(d) of the Act, sets out requirements in accordance with section 16E(5) that the relevant Ministers must be satisfied will be met, or will likely be met, after the overseas investment in sensitive land is made, including requirements relating to the following:
 - the maintaining of existing arrangements for the protection of significant areas of vegetation and habitats of fauna, the protection of historic heritage, and the providing of public access for walkers:
 - the performance of existing contractual obligations for the supply of logs to be processed in New Zealand:
 - the planting of trees to replace felled ones:
- for the purposes of section 16E(4)(e) of the Act, requires any foreshore, seabed, riverbed, or lakebed that is included in the land to have been offered to the Crown in accordance with regulations 13 to 26 of the principal regulations if the overseas investment in sensitive land involves the transfer of a freehold estate.

Regulatory impact assessment

The Treasury produced a regulatory impact assessment on 27 February 2018 to help inform the decisions taken by the Government relating to the contents of this instrument.

A copy of this regulatory impact assessment can be found at—

- <http://www.treasury.govt.nz/publications/informationreleases/ria>

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*:

These regulations are administered by the Treasury.