

The Treasury

Amending the Overseas Investment Act 2005 to Support Investment in Build-to-Rent Information Release

June 2024

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<https://treasury.govt.nz/publications/information-release/amending-overseas-investment-act-2005-support-investment-build-rent>

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Key to sections of the Act under which information has been withheld:

- [33] 9(2)(f)(iv) - to maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials
- [34] 9(2)(g)(i) - to maintain the effective conduct of public affairs through the free and frank expression of opinions
- [35] 9(2)(g)(ii) - to maintain the effective conduct of public affairs through protecting ministers, members of government organisations, officers and employees from improper pressure or harassment;
- [36] 9(2)(h) - to maintain legal professional privilege
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Fact sheet

Unlocking investment in housing

8 March 2024

The government is simplifying overseas investment rules to support investment in build-to-rent housing

These changes streamline and improve existing processes in place under the Overseas Investment Act 2005 (the Act) to support investment in build-to-rent (BTR) housing.

The Build-to-Rent (BTR) sector

BTR refers to privately-owned rental housing consisting of 20 or more dwellings, that are typically owned and managed as long-term investments. This sector has seen substantial growth in other countries. In New Zealand, BTR is a newer housing model with the potential to provide additional supply of quality rentals. However, the sector is still nascent and faces challenges sourcing capital for projects of this nature domestically.

Housing investment under the Overseas Investment Act 2005

The Overseas Investment Act 2005 (the Act) is New Zealand's primary tool for managing foreign investment into New Zealand. It balances the need to manage the risks of foreign investment in sensitive assets against the need to enable investment that is beneficial to New Zealanders.

The Act was amended in 2018 to classify residential land as a "sensitive asset", imposing broad screening requirements and restrictions on foreign ownership of residential land ("the foreign buyers ban"). This generally prohibits overseas investment in residential land unless the investor is eligible to live here or the land will be used for a supported purpose, such as to run a business or add housing supply. In these circumstances, investors are required to apply for a consent from the regulator, Toitū Te Whenua Land Information New Zealand.

The current residential land rules provide a streamlined pathway for investment in new housing, including BTR, through the increased housing test. However, to purchase an existing BTR asset, overseas investors are currently only able to obtain consent under the more onerous benefit to New Zealand test.

The benefit to New Zealand test incurs additional costs, delays and uncertainty for investors. This creates barriers for the BTR sector as, owing to the relatively limited range of domestic buyers, it limits exit opportunities for developers.

Changes will ease costs for large-scale housing and business investments in New Zealand

To address these barriers, the government is creating a new streamlined consent pathway for BTR. This will better enable investors to acquire residential land to build or operate an existing BTR development of 20 dwellings or more.

Consents will be conditional on the investor:

- Paying a fee to ensure the regime is fully cost-recovered
- Not occupying the land (or have individuals connected to them occupy it),
- Utilising the land for the consented purpose within a timeframe determined by the regulator, and
- Divesting their interest in the asset if the asset is no longer to be operated as a BTR development (and in line with any conditions imposed by the regulator as part of the consent).