

The Treasury

Overseas Investment Act Forestry Review Information Release

June 2022

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Treasury Report: Overseas Investment (Forestry) Amendment Bill 2022: Approval for introduction

Date:	6 May 2022	Report No:	T2022/788
		File Number:	IM-5-8-4-1

Action Sought

	Action Sought	Deadline
Minister of Finance (Hon Grant Robertson)	Note the contents of this report.	N/A
Associate Minister of Finance (Hon David Parker)	<p>Provide feedback, if any, on the draft Cabinet Legislation Committee (LEG) paper and Bill.</p> <p>Agree to consult your colleagues on the draft Cabinet paper and Bill before lodging with LEG on 12 May for consideration by that Committee on 19 May.</p>	9 May 2022

Contact for Telephone Discussion (if required)

Name	Position	Telephone	1st Contact
Lachy Stark	Analyst, International	[39]	[35] ✓
Conor McBride	Manager, International		

Actions for the Minister's Office Staff (if required)

<p>Return the signed report to Treasury.</p> <p>Refer this report to the Minister for Land Information and the Minister of Forestry.</p>
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Note any feedback on the quality of the report

Enclosure: Yes (the Draft Cabinet paper, Overseas Investment (Forestry) Amendment Bill and draft Departmental Disclosure Statement are attached)

Treasury Report: Treasury Report: Overseas Investment (Forestry) Amendment Bill 2022: Approval for introduction

Purpose of Report

1. This report provides you with the draft Cabinet paper “Overseas Investment (Forestry) Amendment Bill 2022” and associated Bill, for consideration by the Cabinet Legislation Committee (LEG) on 19 May 2022. These amendments to the Overseas Investment Act 2005 (the Act) will give effect to policy decisions made by Cabinet [ENV-22-MIN-001 refers] and joint Ministers¹ [TR2022/501 and T2022/898 refer] as part of the Overseas Investment Act Forestry Review (the Forestry Review).
2. This report seeks your (Minister Parker’s):
 - a feedback and agreement to consult with your colleagues on the draft Cabinet paper and Bill, and
 - b agreement to lodge the paper, subject to any requested changes, on 12 May ahead of consideration by LEG on 19 May 2022.
3. The report also provides you with an update on the timing of the legislative process and a copy of the draft Departmental Disclosure Statement, which is attached at **Annex Four**.
4. Suggested talking points and additional background information to support the paper’s introduction at LEG are attached at **Annex One**.

Draft Cabinet paper and Bill

The Bill will give effect to Cabinet’s and joint Ministers’ decisions on the Forestry Review

5. The *Overseas Investment (Forestry) Amendment Bill* (the Bill) attached to this report will give effect to Cabinet and joint Ministers’ recent decisions as part of the Forestry Review [ENV-22-MIN-0001, TR2022/501 and T2022/898 refer].
6. The draft Cabinet paper and Bill are attached at **Annex Two** and **Annex Three** respectively. From our perspective, these are near-final versions but remain subject to minor drafting amendments prior to lodgement, pending your feedback.
7. We recommend that you provide any feedback you have on the draft Cabinet paper and Bill to the Treasury by Monday 9 April. We will work with the Parliamentary Counsel Office (PCO) to incorporate any necessary changes to the Bill and update the Cabinet paper, to allow you to begin Ministerial consultation by 10 May. This will allow for three days of Ministerial consultation prior to lodgement on 12 May.

¹ The Minister of Finance, Associate Minister of Finance (Hon David Parker), Minister for Land Information and Minister of Forestry [ENV-22-MIN-0001 refers].

Legislative timeline

8. We anticipate that the changes to the Act will commence by the end of August 2022. Proposed dates for the Bill's introduction and consequent stages through the House are indicative only and will be subject to the Government's priorities for House time.
9. An updated legislative timeline is set out in the table below:

Activity	Date
This Treasury report returned to Treasury with any feedback on the draft Cabinet LEG paper and/or Bill.	9 May 2022
Ministerial consultation on draft LEG paper for approval for introduction (exact timing subject to any updates required).	9-11 May 2022
LEG paper to be lodged	12 May 2022
LEG meeting	19 May 2022
Cabinet meeting	23 May 2022
Introduction of Bill	31 May 2022
First reading	2 June 2022
Select committee consideration	June to late July 2022
Second reading Committee of the whole House	[33]
Third reading and royal assent	
Commencement	Late August 2022 (indicative)

Publication of relevant materials

Communications material to support the legislative process and introduction

10. To support the introduction and passage of the Bill through the legislative process, the Treasury is considering publishing material to support the introduction of the Bill (such as a factsheet and public facing questions and answers). We will provide copies to your office for feedback and approval alongside material to support the Bill's first reading (such as back-pocket questions and answers and your first reading speech).
11. We will also work with other agencies prior to commencement of the Bill to develop material to support the Bill's implementation (such as guidance and/or a Ministerial directive letter). These products are intended to provide stakeholders with more clarity on how the new rules will work in practice and about the types of overseas investment in forestry that the Government is seeking.

Recommended Action

We recommend that you:

- a **provide** any feedback you have on the draft Overseas Investment (Forestry) Amendment Bill (the Bill) and Cabinet paper

Provided/not provided

- b **agree** to consult on the draft Cabinet paper with your colleagues between 9 and 11 May 2022

Agree/disagree

- c **agree** to lodge the final version of the Cabinet paper on 12 May, for consideration by the Cabinet Legislation Committee on 19 May.

Agree/disagree

- d **note** we will provide your office with communications material we may publish to support the Bill at introduction and material for the Bill's first reading speech

- e **note** the updated legislative timeline and attached copy of the draft Departmental Disclosure Statement

- f **refer** this report to the Minister for Land Information and the Minister of Forestry.

Refer/not referred

Conor McBride
Manager, International

Hon David Parker
Associate Minister of Finance

Annex One: Suggested talking points for LEG

- In February 2022, Cabinet decided to pursue legislative change to remove forestry conversions from the Overseas Investment Act's special forestry test, along with other, more minor changes to the Act.
- I am seeking agreement to introduce the Overseas Investment (Forestry) Bill. I would like to draw two main matters to your attention:
 - some minor policy issues that joint Ministers have made under delegation to implement Cabinet's decisions, and
 - my desire that the Bill have a condensed legislative process and be passed by late August.
- This Bill holds a category 3 priority on the 2022 Legislation Programme – to be passed if possible in 2022.
- I have proposed this Bill be introduced on 31 May, and that the House refer it to the Finance and Expenditure Committee with special instructions to report back within two months.

Joint Ministers' decisions

- When Cabinet initially agreed to remove forestry conversions from the Overseas Investment Act's special forestry test and specify that they will instead need to access the Benefit to New Zealand pathway, it also delegated authority to joint Ministers to take further policy decisions consistent with the direction of those decisions.

Requirements for forestry conversions to access the Benefit to New Zealand test

- Cabinet's initial decision required a clarification on how forestry conversions involving farm land are to be treated under the new rules.
- Joint Ministers have decided that the Benefit to New Zealand test can be accessed where a forestry conversion involves farm land, only where the farm land is to be used exclusively, or nearly exclusively for forestry activities, and replanted after harvest.
- These requirements are drawn from the special forestry test and we consider that they will minimise the ability of overseas investors to avoid the Farm land benefit test as well as contribute to maintaining a coherent overseas investment screening regime.

Commencement and transitional provisions

- To achieve a swift realisation of Cabinet's goal of ensuring that farm land to forestry conversions demonstrate benefits to New Zealand, joint Ministers consider that the Bill should proceed quickly.
- To achieve this, we have decided that the Bill should commence the day after it receives Royal Assent and progress under a condensed legislative timeframe.
- Subject to Cabinet's approval, I will – at the Bill's first reading – propose that the House issue special instructions to the Finance and Expenditure Committee to report back to the House within two months, rather than the standard six. This will allow the Bill to commence in late August.

Annex Three: Overseas Investment (Forestry) Amendment Bill

Annex Four: Draft Departmental Disclosure Statement
