

Overseas Investment (Protection of New Zealand Homebuyers) Amendment Bill

Member's Bill

Explanatory note

General policy statement

This Bill amends the Overseas Investment Act 2005 to apply new restrictions on non-resident purchasers of New Zealand residential properties in order to better protect New Zealand homebuyers.

Housing affordability has significantly declined in recent years as a result of lack of housing supply coupled with increased demand from speculators. Imposing restrictions on non-residents purchasing property in New Zealand should improve home affordability. Overseas investment in residential property should be permitted only when it brings value to New Zealand and does not harm first home buyers.

Under the provisions of this Bill, non-residents will be granted permission to purchase a residential property only if they intend to live here permanently or their purchase adds to our existing housing stock. For example, a non-resident wishing to purchase vacant land with a commitment to begin building a new dwelling within 12 months will be likely to have their application granted.

Students, skilled migrants, and other persons temporarily resident in New Zealand for 12 months or longer will be granted approval to purchase a house on the condition that it is sold if they leave. Allowing people to “test the waters” before moving here means we can still attract the talent our economy needs.

Any non-resident person found to have purchased a residential property without Overseas Investment Office approval could be forced to sell the property, which may cause them loss. A fine may also be imposed in some cases.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause. It provides that the Bill comes into force on the day after the date on which it receives the Royal assent.

Clause 3 provides that the Bill amends the Overseas Investment Act 2005 (the **principal Act**).

Clause 4 amends various definitions.

Clause 5 inserts a requirement for overseas investments in residential property to gain consent.

Clause 6 defines which overseas investments in residential property require consent.

Clause 7 inserts *new sections 17A and 17B*.

Clause 8 makes consequential amendments to section 19.

Clause 9 provides for decisions to be made by the Minister and the Minister of Housing.

Clause 10 requires the Minister to impose as a condition of consent that the applicant become a resident within a prescribed period of time when applying under *new section 17A(1)(c)(i)*.

Clause 11 allows countries to be exempted from the new residential property provisions by regulation.

Phil Twyford

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Overseas Investment (Protection of New Zealand Homebuyers) Amendment Act **2015**.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

3 Principal Act

This Act amends the Overseas Investment Act 2005 (the **principal Act**). 5

4 Section 6 amended (Interpretation)

(1) In section 6(1), definition of **category**, after paragraph (a), insert:

(aa) an overseas investment in residential property:

(2) In section 6(1), definition of **give effect to an overseas investment**, paragraph (a), insert “overseas investment in residential property,” after “overseas investment in sensitive land,”. 10

(3) In section 6(1), after the definition of **overseas investment in fishing quota**, insert:

overseas investment in residential property has the meaning set out in **section 12A** 15

(4) In section 6(1), definition of **overseas investment transaction**, insert “, an overseas investment in residential property,” after “overseas investment in sensitive land”.

(5) In section 6(1), after the definition of **Reserve Bank**, insert:

residential property means urban land that may be used for residential purposes under rules in the relevant proposed or operative district plan 20

5 Section 10 amended (Consent required for overseas investments in sensitive New Zealand assets)

In section 10(1), after paragraph (a), insert:

(aa) an overseas investment in residential property (*see* **section 12A**): 25

6 New section 12A (What are overseas investments in residential property)

After section 12, insert:

12A What are overseas investments in residential property

An **overseas investment in residential property** is the acquisition by an overseas person, or an associate of an overseas person, of— 30

(a) an interest in residential property:

(b) rights or interests in securities of a person (A) if A owns or controls (directly or indirectly) an interest in residential property described in **paragraph (a)** and, as a result of the acquisition,—

- (i) the overseas person or the associate (either alone or together with its associates) has a 25% or more ownership or control interest in A; or
- (ii) the overseas person or the associate (either alone or together with its associates) has an increase in an existing 25% or more ownership or control interest in A; or
- (iii) A becomes an overseas person.

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7 New sections 17A and 17B

After section 17, insert:

17A Criteria for approval of overseas investments in residential property

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(1) The criteria for approval of an overseas investment in residential property are all of the following:

(a) the relevant overseas person is, or (if that person is not an individual) each individual with control of the relevant overseas person is, of good character:

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(b) the relevant overseas person is not, or (if that person is not an individual) each individual with control of the relevant overseas person is not, an individual of a kind referred to in section 15 or 16 of the Immigration Act 2009 (which sections list certain persons not eligible for visas or entry permission under that Act):

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(c) one of the following is met:

(i) the relevant overseas person is, or (if that person is not an individual) all the individuals with control of the relevant overseas person are, New Zealand citizens, ordinarily resident in New Zealand, or intending to reside in New Zealand indefinitely:

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(ii) the relevant overseas person is, or (if that person is not an individual) all the individuals with control of the relevant overseas person are, intending to reside in New Zealand temporarily and in agreement with selling any interest obtained upon departure:

(iii) the overseas investment will, or is likely to, increase the supply of housing in New Zealand, as determined by the relevant Minister under **section 17B**.

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(2) See section 19 in relation to **subsection (1)(a)** and **(b)**.

17B Assessing increase in housing supply for overseas investments in residential property

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(1) If **section 17A(1)(c)(iii)** applies, the relevant Ministers must determine whether the requirements in **subsection (2)** are fulfilled.

- (2) In order for an overseas investment in residential property to be deemed to, or deemed likely to increase the supply of housing in New Zealand, compliance with **paragraphs (a) to (c)** must be demonstrated:
- (a) the relevant overseas person is committed to 1 of the following, in what the relevant Ministers consider to be a reasonable period of time: 5
- (i) the overseas investment is in vacant land and the relevant overseas person is committed to building premises used or intended for occupation by any person as a place of residence: 10
- (ii) the overseas investment is in existing premises used or intended for occupation by any person as a place of residence and the relevant overseas person is committed to redeveloping that site to contain a greater number of places of residence: 10
- (iii) the overseas investment is in existing premises used or intended for occupation by any person as a place of residence that is not currently suitable for habitation and the relevant overseas person is committed to redeveloping that site to make it fit for habitation; and 15
- (b) the relevant overseas person has, or (if that person is not an individual) the individuals with control of the relevant overseas person collectively have, business experience and acumen relevant to the investment in **paragraph (a)**; and 20
- (c) the relevant overseas person has demonstrated financial commitment to the investment in **paragraph (a)**.
- 8 Section 19 amended (Applying good character and Immigration Act 2009 criteria)** 25
- (1) In section 19(1), after “sections 16(1)(c)”, insert “, **17A(1)(a)**”.
- (2) In section 19(2), after “sections 16(1)(d)”, insert “, **17A(1)(b)**”.
- 9 Section 24 amended (Who decides application)**
- After section 24(1)(a), insert:
- (aa) in the case of a residential property decision, by the Minister and the Minister of Housing: 30
- 10 Section 28 amended (Conditions of consent)**
- After section 28(2), insert:
- (3) Where the overseas person is intending to reside in New Zealand indefinitely as set out in **section 17A(1)(c)(i)**, the Minister must impose as a condition of the consent that the overseas person become a resident of New Zealand within a period of time to be specified by the Minister. 35

11 Section 61 amended (Regulations)

After section 61(1)(m), insert:

- (ma) providing for applicants from particular countries to be exempt from this Act for overseas investments in residential property: