



# Overseas Investment (Forestry) Amendment Act 2022

Public Act 2022 No 42  
Date of assent 15 August 2022  
Commencement see section 2

## Contents

	Page
1 Title	2
2 Commencement	2
3 Principal Act	2
<b>Part 1</b>	
<b>Amendments to Part 2 (consent and conditions regime)</b>	
4 Section 16A amended (Benefit to New Zealand test)	2
5 Section 16B amended (Conditions for consents relating to sensitive land that is residential land: benefit to New Zealand test)	3
6 Section 16C amended (Conditions for consents relating to sensitive land that will be used for forestry activities)	3
7 Section 17 amended (Factors for assessing benefit of overseas investments in sensitive land)	4
<b>Part 2</b>	
<b>Other amendments</b>	
8 Schedule 1AA amended	4
9 Schedule 2 amended	4
10 Schedule 3 amended	4
11 Schedule 4 amended	4
<b>Schedule</b>	
<b>New Part 7 inserted into Schedule 1AA</b>	

**The Parliament of New Zealand enacts as follows:****1 Title**

This Act is the Overseas Investment (Forestry) Amendment Act 2022.

**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.

**Part 1****Amendments to Part 2 (consent and conditions regime)****4 Section 16A amended (Benefit to New Zealand test)**

(1) In section 16A(1AA), table,—

- (a) item relating to the modified benefit test if land is or includes farm land, second column, after “(1D)”, insert “, (1E), (2)”;
- (b) repeal the item relating to the modified benefit test for forestry activities.

(2) In section 16A(1B), delete “(3) or”.

(3) Replace section 16A(2) and (3) and the cross-heading above section 16A(2) with:

(2) Subsection (1C) does not apply if the relevant Ministers are satisfied—

- (a) that, as a result of the overseas investment, the farm land will, or is likely to, be used exclusively, or nearly exclusively, for forestry activities; and
- (b) that, whenever a crop of trees is harvested on the farm land, a new crop will be, or is likely to be, established on the farm land to replace the crop that is harvested (subject to subsection (7)); and
- (c) that the non-occupation outcome will, or is likely to, occur in relation to the farm land (where that outcome in clause 17(3) to (5) of Schedule 2 applies with necessary modifications as if the reference to residential land were a reference to the farm land).

(4) Replace section 16A(4)(a) with:

- (a) that the relevant land is already used when the transaction is entered into, and will continue to be used, exclusively, or nearly exclusively, for forestry activities; and

(5) Replace section 16A(4)(c) with:

- (c) that the non-occupation outcome will, or is likely to, occur in relation to the relevant land (where that outcome in clause 17(3) to (5) of Schedule 2 applies with necessary modifications as if the reference to residential land were a reference to the relevant land); and
- (6) After section 16A(4), insert:
- (4A) To avoid doubt, the reference in subsection (2)(a) to the use of the farm land and the reference in subsection (4)(a) to the use of the relevant land mean the use that arises under the estate or interest referred to in section 12(1)(a).
- (7) In section 16A(7)(a) and (b), replace “(2)(d)” with “(2)(b)”.
- (8) In section 16A(9), replace the definition of **forestry activities** with:  
**forestry activities** means any of the following activities in respect of any trees (whether exotic or native) that are to be harvested to provide wood:
  - (a) maintaining a crop of trees:
  - (b) harvesting a crop of trees:
  - (c) maintaining the land during the period between harvesting a crop of trees and establishing a new crop of trees:
  - (d) establishing a crop of trees.

**5 Section 16B amended (Conditions for consents relating to sensitive land that is residential land: benefit to New Zealand test)**

- (1) Replace section 16B(2) with:
- (2) However, this section does not apply (and *see* instead section 16C)—
  - (a) to the extent that the relevant land is farm land and the relevant Ministers are satisfied in accordance with section 16A(2); or
  - (b) where the application is being considered in accordance with section 16A(4).
- (2) In section 16B, example, replace “section 16A(1)(c)” with “section 16A(1)(b)”.

**6 Section 16C amended (Conditions for consents relating to sensitive land that will be used for forestry activities)**

- (1) Replace section 16C(1) and (2) with:
  - (1) Subsection (2) applies if an application for consent for an overseas investment in sensitive land is being considered under the benefit to New Zealand test, to the extent that the relevant land is farm land and the relevant Ministers are satisfied in accordance with section 16A(2).
  - (2) If granted, the consent must be made subject to conditions for the purpose of ensuring that the requirements set out in section 16A(2) will be met, subject to section 16A(7).
- (2) In section 16C(5), replace “16A(2)(d)” with “16A(2)(b)”.

**7 Section 17 amended (Factors for assessing benefit of overseas investments in sensitive land)**

In section 17(2), delete “(including where section 16A(3) is being applied)” in each place.

## **Part 2 Other amendments**

**8 Schedule 1AA amended**

In Schedule 1AA,—

- (a) insert the Part set out in the Schedule of this Act as the last Part; and
- (b) make all necessary consequential amendments.

**9 Schedule 2 amended**

In Schedule 2, after clause 17(4), insert:

- (5) For the purposes of section 16A(2)(c) and (4)(c), subclause (3)(c) does not apply to the extent that—
  - (a) accommodation is being provided for the purpose only of supporting forestry activities (as defined in section 16A(9)) being carried out on the farm land (in the case of section 16A(2)(c)) or the relevant land (in the case of section 16A(4)(c)); and
  - (b) all the buildings being used for that accommodation are located on land on which some or all of those forestry activities are being carried out or on land that adjoins land on which some or all of those forestry activities are being carried out.

**10 Schedule 3 amended**

- (1) In Schedule 3, clause 6(4)(b), replace “the combined area of all other forestry rights” with “the combined area of all unconsented forestry rights”.
- (2) In Schedule 3, clause 6(5), replace “(4)(b)(i)” with “(4)(b)”.
- (3) In Schedule 3, after clause 6(6), insert:
- (7) In this clause, **unconsented forestry right** means a forestry right that is acquired otherwise than in reliance on any of the following:
  - (a) a consent;
  - (b) an exemption in, or an exemption granted under, this Act or the regulations (other than an exemption under this clause).

**11 Schedule 4 amended**

- (1) In Schedule 4, clause 3(2)(d), replace “applicant has” with “persons referred to in subclause (2A) have”.

- (2) In Schedule 4, after clause 3(2), insert:
- (2A) For the purposes of subclause (2)(d), the persons are the following (viewed as a group):
- (a) the applicant:
  - (b) the applicant's associates:
  - (c) the individuals with control of the relevant overseas person.

**Schedule**  
**New Part 7 inserted into Schedule 1AA**

s 8

**Part 7**  
**Provisions relating to Overseas Investment (Forestry) Amendment Act 2022**

**52 Interpretation in this Part**

- (1) In this Part, unless the context otherwise requires,—
- commencement** means the day after the date on which the Overseas Investment (Forestry) Amendment Act 2022 receives the Royal assent
- new Act** means this Act as it reads immediately after commencement
- old Act** means this Act as it read immediately before commencement.
- (2) Part 1 of this schedule applies when determining whether a transaction is entered into before commencement or on or after commencement (*see* clause 1(4) and (5)).

**53 Existing transactions and applications, etc**

- (1) This clause applies for the purposes of applying a provision of this Act that relates to—
- (a) determining when consent is required and the criteria for consent under subpart 1 of Part 2 of this Act; and
- (b) the making of applications for consent and for granting consent under subpart 2 of Part 2 of this Act.
- (2) Except as provided in this Part, the old Act continues to apply to—
- (a) any application for consent (including for standing consent) received by the regulator before commencement (regardless of when the transaction is or was entered into or whether it has been given effect to); and
- (b) any transaction entered into before commencement; and
- (c) any other matter that relates to events or circumstances before commencement.
- (3) In other cases, the new Act applies.
- (4) Subclause (2)(b) does not apply to a transaction that is given effect to before commencement without consent in breach of this Act.

Compare: Schedule 1AA, cls 15(2)(c), 38

**54 Standing consents granted in respect of forestry activities**

- (1) This clause applies to a standing consent—

- (a) that is granted before commencement under clause 3 of Schedule 4; or
- (b) that is granted after commencement pursuant to an application described in clause 53(2)(a).
- (2) The standing consent and the old Act continue to apply in respect of any overseas investments in sensitive land that are given effect to in reliance on the standing consent.

### Legislative history

31 May 2022	Introduction (Bill 134–1)
7 June 2022	First reading and referral to Finance and Expenditure Committee
1 August 2022	Reported from Finance and Expenditure Committee (Bill 134–2)
9 August 2022	Second reading
10 August 2022	Committee of the whole House
11 August 2022	Third reading
15 August 2022	Royal assent

This Act is administered by the Treasury.