

Overseas Investment (Owning our Own Rural Land) Amendment Bill

Member's Bill

Explanatory note

General policy statement

This Bill amends the Overseas Investment Act 2005 to limit the sale of rural land to foreign buyers.

The discretion to turn down farm sales to overseas persons is already very wide, but has not been properly exercised by the current Government.

The New Zealand Labour Party (**Labour**) believes New Zealanders' widespread concerns about farm sales to foreign buyers are valid, and that the discretion of the Minister to approve sales should be tightened.

This Bill limits the discretion of the Minister to consent to applications for the purchase of rural land. It significantly narrows the type of investment in rural land that will be acceptable in 2 ways. First, it requires foreign investment to deliver benefits that would be over and above what a New Zealand investor would produce. Secondly, it ensures that substantial job creation and increases in exports are the most important factors to be considered.

New Zealanders have a natural desire to control our own country for the benefit of New Zealanders.

A major part of our current account deficit already comprises interest and dividends paid to overseas investors. New Zealand's poor savings record means we are reliant on imported capital to fund our current account deficit. Most of this comes via increased lending to home owners, but our deficit is used by some as a misplaced justification for the sale of our productive assets to overseas buyers.

We need to take care not to lose ownership of our farm land by allowing New Zealanders to be outbid by foreign buyers. We cannot afford to lose control of our best income-producing assets and become tenants in our own land.

New Zealanders are already good farmers. Overseas owners do not usually increase farm output by any more than a New Zealand purchaser would. Our processors and exporters are also very capable. More often than not foreign purchasers use New Zealand farmers and existing New Zealand processors. International trade rules, including our free trade agreements, give us access to overseas markets without selling our land.

Labour does not believe selling our farm land to foreign buyers improves our economy.

While economic outcomes are important, they are not the only important goal.

Social structures—including social mobility and New Zealanders' ability to own our own assets—are fundamentally important to Labour too.

New Zealand farms should not be priced out of the reach of New Zealanders. Asset prices inflated beyond the means of New Zealanders undermine social mobility, and lead to concentrations of wealth amongst a smaller number. Unless we change our ways our farms will be increasingly owned by foreigners and those fortunate to be born into wealthy families. The prospects of a sharemilker becoming a farm owner are diminishing. Labour thinks this is wrong.

Other non-economic consequences include the loss of our traditional attitudes to allowing reasonable access across rural land to our beaches, lakes, and rivers.

Globalisation is averaging the price of many goods and services around the world. While prices of consumer goods and some related wages may be converging in different parts of the industrial and industrialising world, asset inequality is increasing.

Trade imbalances are high, with countries like New Zealand running long-term current account deficits while rapidly emerging economies are running very large cash surpluses.

The concentrations of wealth, even in countries far less wealthy than New Zealand, together with State control of the savings from trade surpluses in some countries, mean that there are many overseas entities able to outbid New Zealanders for our assets.

Liquidity constraints since the global financial crisis and the higher relative cost of capital in New Zealand increasingly constrain the ability of New Zealanders to buy our own farm land if our land assets are priced on an international rather than New Zealand market.

Since the global financial crisis a pattern has emerged internationally. Those with large trade surpluses or concentrations of wealth are investing unprecedented amounts in primary resources like land, water, and minerals, and their related supply chains.

The long-term solutions for New Zealand are complex and interlinked. We need to increase our exports and savings, so that we stop spending more on imports, interest to overseas lenders, and profits to foreign owners than we earn. To do this we need changes to tax, savings, and monetary policy.

Losing the ownership and future profits from our farm land, by allowing New Zealanders to be outbid by foreign buyers, is no part of the solution.

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 Overseas Investment Act 2005 is the principal Act.

Clause 4 states that the purpose of the Bill is to substantially limit the sale of rural land of more than 5 hectares in area to overseas persons.

Clause 5 repeals section 14(1)(c).

Clause 6 amends section 16 to establish non-urban land as a category of sensitive land to be considered separately.

Clause 7 amends section 17 to make a technical change.

Clause 8 inserts new *section 17A* to ensure only rural land sales bringing substantial new jobs or new exports can be approved.

Clause 9 amends section 28 clarifying the conditions relating to intending residents as referred to in *section 16(1)(e)(i)*.

Hon Phil Goff

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Contents

	Page
1 Title	1
2 Commencement	1
3 Principal Act	2
4 Purpose	2
5 Section 14 amended (Approach to criteria for consent)	2
6 Section 16 amended (Criteria for consent for overseas investments in sensitive land)	2
7 Section 17 amended (Factors for assessing benefit of overseas investments in sensitive land)	2
8 Insert new section 17A (Criteria for assessing benefit of overseas investments in non-urban land)	2
17A Criteria for assessing benefit of overseas investments in non-urban land	2
9 Section 28 amended (Conditions of consent)	4

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Overseas Investment (Owning our Own Rural Land) Amendment Act **2013**.

2 Commencement

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

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3 Principal Act

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

4 Purpose

The purpose of this Act is to substantially limit the sale of rural land of more than 5 hectares in area to overseas persons. 5

5 Section 14 amended (Approach to criteria for consent)

Repeal section 14(1)(c).

6 Section 16 amended (Criteria for consent for overseas investments in sensitive land)

Replace section 16(1)(e) with: 10

(e) any of **subparagraph (i), (ii), or (iii)** 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; or 15

(ii) if the relevant land does not include non-urban land, the overseas investment will, or is likely to, benefit New Zealand, as determined by the relevant Ministers under section 17; or

(iii) if the relevant land includes non-urban land that in area (either alone or together with any associated land) exceeds 5 hectares, the overseas investment will, or is likely to, benefit New Zealand as determined by the relevant Ministers under **section 17A** and that benefit will be substantial and identifiable and would not be likely to otherwise occur in the foreseeable future: 20

7 Section 17 amended (Factors for assessing benefit of overseas investments in sensitive land) 25

In section 17(1)(b), replace “section 16(1)(e)(ii) and (iii)” with “section 16(1)(e)(ii)”.

8 Insert new section 17A (Criteria for assessing benefit of overseas investments in non-urban land) 30

After section 17, insert:

17A Criteria for assessing benefit of overseas investments in non-urban land

(1) If **section 16(1)(e)(iii)** applies, the relevant Ministers—

(a) must apply the criteria set out in **subsection (2)** to determine whether the benefit will be substantial and identifiable, and would not be likely to otherwise occur in the foreseeable future; and 35

- (b) must ensure the factors set out in **subsection (4)** can and will be dealt with through consent conditions.
- (2) The relevant Ministers must be satisfied the overseas investment will, or is likely to, result in—
- (a) the creation of a substantial number of additional jobs in New Zealand, for example through the introduction of new technology or new products; or 5
- (b) a substantial increase in exports, for example from new products that will be produced on the land or from new technology used in the processing of that and other produce. 10
- (3) For the purposes of **subsection (2)** the relevant Ministers must be satisfied that the additional jobs or increase in exports will be additional to what would be likely to occur in the foreseeable future if a New Zealander purchased the land.
- (4) Subject to **subsection (2)**, the relevant Ministers must also include, to the extent they are relevant to the overseas investment, consent conditions to ensure— 15
- (a) there are or will be adequate mechanisms in place for protecting or enhancing existing areas of significant indigenous vegetation and significant habitats of indigenous fauna, for example, any 1 or more of the following: 20
- (i) conditions as to pest control, fencing, fire control, erosion control, or riparian planting;
- (ii) covenants over the land:
- (b) there are or will be adequate mechanisms in place for— 25
- (i) protecting or enhancing existing areas of significant habitats of trout, salmon, and wildlife protected under section 3 of the Wildlife Act 1953, and game as defined in section 2(1) of that Act (for example, any 1 or more of the mechanisms referred to in **paragraph (c)(i) and (ii)**); and 30
- (ii) providing, protecting, or improving walking access to those habitats by the public or any section of the public:
- (c) there are or will be adequate mechanisms in place for protecting or enhancing historic heritage within the relevant land, for example, any 1 or more of the following: 35
- (i) conditions for conservation (including maintenance and restoration) and access:
- (ii) agreement to support registration of any historic place, historic area, wahi tapu, or wahi tapu area under the Historic Places Act 1993: 40

(iii) agreement to execute a heritage covenant:	
(iv) compliance with existing covenants:	
(d) there are or will be adequate mechanisms in place for providing, protecting, or improving walking access over the relevant land or a relevant part of that land by the public or any section of the public:	5
(e) if the relevant land is or includes foreshore, seabed, or a bed of a river or lake, that foreshore, seabed, riverbed, or lakebed has been offered to the Crown in accordance with regulations:	
(f) any other factors set out in regulations are or will be adequately provided for.	10
9 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 16(1)(e)(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.	15