

Screening of Residential Land: Questions and Answers

Who does the policy apply to?

1. Who does the policy apply to?

In general terms, only New Zealand and Australian citizens, and those who are ordinarily resident in New Zealand, will be able to purchase homes here.

Specifically:

- **New Zealand citizens** will continue to be able to purchase homes in New Zealand, regardless of where they reside.
- **New Zealand permanent residents** that are “ordinarily resident in New Zealand” will continue to be able to purchase homes in New Zealand. For residential land purchases we consider someone to be “ordinarily resident” if at the time the person enters an unconditional contract for sale and purchase, they have a permanent resident visa and have resided in New Zealand for the last 12 months and are present in New Zealand for at least 183 days in that period.
- **Australian citizens and permanent residents** will be treated the same way as New Zealand citizens and permanent residents, respectively.
- **Other persons** will be able to purchase sensitive land that is residential land following screening by the Overseas Investment Office (OIO) if they can demonstrate:
 - a commitment to reside in New Zealand; or
 - that they will increase the housing supply through their investment and commit to sell the properties; or
 - that they build or expand retirement villages, aged care facilities, student accommodation or similar long-term accommodation, where the developer can retain, lease or operate those facilities (but not reside in them); or
 - wish to purchase residential land for development to a non-residential use and can show the development will be beneficial.

The government is keen to receive public submissions on the Bill, including feedback on how different New Zealand residents are treated.

2. How will the policy apply in relation to companies, trusts and other corporate structures? Will companies that are registered on the New Zealand Stock Exchange be able to purchase residential land?

In general terms, any company, trust, body corporate or other legal entity will be subject to the restrictions on purchases of sensitive land that is residential land if they are 25% or more beneficially owned or controlled by “overseas persons”. These rules

will apply regardless of whether an entity is incorporated or established in New Zealand, or listed on the New Zealand Stock Exchange,

These rules also apply to family trusts. If overseas persons control 25% or more of the decisions of the trust or 25% or more of the trusts beneficiaries are overseas persons, the trust will also be subject to the restrictions.

3. What about other categories of migrants e.g. skilled migrants, investor migrants and students? Will they be able to purchase homes in New Zealand?

People that are not New Zealand and Australia citizens and permanent residents will only be able to purchase residential land following screening by the OIO.

The Bill provides a pathway to home ownership for Permanent Resident Visa and other Resident Visa holders that are not “ordinarily resident” (such as those who have not resided in New Zealand for at least 12 months) but are committed to reside in New Zealand. People making use of this pathway to consent will be able to purchase one home for use as their principal place of residence in New Zealand, which they will be required to sell if they cease to live here.

It is not intended that Student Visa and other Temporary Visa holders will be able to use this pathway to consent. People falling into this category will still be able to rent residential properties. They will also be able to apply for consent to build new homes to on-sell or convert to another beneficial use.

4. What if I’m an overseas person who already owns a house?

The Overseas Investment Amendment Bill will not interfere with the rights of existing home owners to use and enjoy their properties. This is an important principle.

It will, however, restrict who existing homeowners can sell their properties to. It will also restrict an overseas person’s ability to make any subsequent purchases of sensitive land that is residential land.

5. Will overseas persons still be able to rent?

Yes. Overseas persons will continue to be able to rent in New Zealand.

What types of property are covered?

6. What land is covered by this policy? Does it apply to apartments/lifestyle blocks/bare land/holiday homes?

The policy will apply to all suburban residential sections, apartments in apartment buildings, and also to lifestyle blocks. The policy applies whether or not a house is built on the land. Generally, holiday homes and baches will be caught by the policy as well.

Strictly speaking, the policy applies to all land that is classified as “residential” or “lifestyle” for District Valuation Roll purposes. Assigning a category to a property is something that is done as part of a council’s ratings process.

A “lifestyle” property is land that is larger than an ordinary residential section, generally in a rural area, and where its predominate use as a place of residence. Farming the land in the traditional sense is not economic.

7. How can I find out if my property is covered by the policy?

A property’s classification can be obtained from various property-information websites.

8. Does the policy apply to newly built houses?

Yes, the policy applies to newly-built homes.

An overseas person will be able to apply to the OIO for consent to buy “off-the-plans” (where a property is purchased from a developer before a house is constructed on it), provided the overseas person on-sells the property once construction has finished.

An overseas person who has committed to reside in New Zealand will also be able to apply to the OIO for consent to buy a newly built house to live in.

How does the policy work?

9. How do I know if I am an overseas person?

Land Information New Zealand is working with other agencies to determine what information is required and what options are available to assist visa-holders determine their status for this purpose.

10. Can a foreign company buy houses for its New Zealand-based staff?

The changes in the Bill mean that foreign companies will not be able to buy residential properties for their staff to live in. They will be able to rent residential properties (provided the lease is for less than 3 years).

11. What happens if I breach my conditions?

Penalties for breaching conditions can include a fine, a civil penalty, or being required to dispose of property.

When will these changes take effect?

12. When does this take effect?

This will take effect after the law is passed, expected to be early 2018.

13. I have entered into a sale and purchase agreement prior to the Bill being enacted. How will I be affected?

The Bill will only apply to sale and purchase agreements entered into after commencement of the new legislation.

14. Will the Bill go to Select Committee / will there be opportunity for public to submit on this?

Yes. The Bill will go through a Select Committee process where the public will have a chance to have their say.