**SUBMISSION FORM**

Have your say on the Overseas Investment Act 2005

## Background

This document is a template for people wishing to submit their views as part of the 2019 consultation on potential reforms to the Overseas Investment Act 2005.

The template provides space to answer questions set out in the consultation document entitled ‘Reform of the Overseas Investment Act 2005: Facilitating productive investment that supports New Zealanders’ wellbeing’.

A full overview of this consultation, the process and consultation documents are available at <https://treasury.govt.nz/overseas-investment-consultation>.

## Instructions

The Treasury is seeking written submissions by **5pm on 24 May 2019**.

1. Please fill out your name and contact details in the “*Details of submitter*” section of this template on page 3:
   1. If you are expressing your own personal views, only fill in the *“For individuals”* section.
   2. If you are submitting on behalf on an organisation, only fill in the “*For organisations*” section.
2. Please enter your responses to the consultation document questions in section of this template entitled, “*Responses to consultation questions*”.

Your submission may respond to any or all of the questions in this template. Please feel free to delete the sections that do not apply to your submission, or you can just leave them blank.

Equally, please feel free to expand the text boxes below each question if you need more space to answer the question.

1. We also encourage your input on any other relevant issues in the “*Other comments on the regime*” section at the end of this template.
2. We intend to upload PDF copies of submissions received to the Treasury’s website**.** We will consider you have consented to uploading by making a submission, unless you clearly specify otherwise in the “*Confidentiality request”* section of this form. Please note that submissions are also subject to the Official Information Act 1982.
3. Before you send your submission:
   1. Delete these first two pages of instructions.
   2. If you do not want your submission uploaded or published, or if it contains any confidential information that you do not want published:
      1. Please state this in the *”Confidentiality request”* section of this form on page 3. The Treasury will take your objections into account and will consult with you when responding to any requests under the Official Information Act 1982.
      2. Any information that you do not want published should be clearly marked within the text of your submission (preferably as Microsoft Word comments). Please explain the reasons why you do not want the information published.
      3. Please provide a separate version of your submission excluding the relevant information for publication on our website (unless you wish your submission to remain unpublished in its entirety).
4. When you have completed this form you can either submit it:
   1. as a Microsoft Word document by email to [OverseasInvestment@treasury.govt.nz](mailto:OverseasInvestment@treasury.govt.nz), or
   2. by mailing your submission to:

Overseas Investment Act Reform

The Treasury

PO Box 3724

Wellington 6140

Please direct any questions that you have in relation to the submission process to [OverseasInvestment@treasury.govt.nz](mailto:OverseasInvestment@treasury.govt.nz)

Reform of the Overseas Investment Act 2005: Facilitating productive investment that supports New Zealanders’ wellbeing

**Submission Form**

## Details of submitter

### For individuals

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| **Name:** |  |
| **Contact number:** |  |
| **Contact email:** |  |
| **Region/country:** |  |

### For organisations

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| **Name of organisation:** |  |
| **Contact person*:*** |  |
| **Contact person’s position in organisation:** |  |
| **Contact number:** |  |
| **Contact email:** |  |
| **Region/country:** |  |

## Confidentiality request

If you want all or part of your submission to be kept confidential and not uploaded onto the Treasury’s website, please mark the applicable box below:

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| **Entire submission confidential** |  |

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| **Part of submission confidential[[1]](#footnote-1)** |  |

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| **Name only confidential** |  |

## Responses to consultation questions

### 1. Sensitive adjoining land (p. 20)

Do you agree that there is a problem, and

* if so, has this paper described it accurately? Can you tell us about your experience, including when it happened?
* if not, do you support the existing arrangements. If so, why?

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Do you have any comment on the potential effects of the options? Are you able to quantify potential effects on compliance costs?

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Do you think the right reform options (pp. 22 – 23) have been identified, and:

* if so, which of the options identified do you prefer and why?
* if not, what alternative option would you support and why?

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If the section 37 list were removed, should any of the types of land currently captured by it be retained in Table 2? (p. 23)

* If so, which types and why?

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### 2. Leases of sensitive land that require screening (p. 25)

Do you agree that there is a problem, and

* if so, has this paper described it accurately? Can you tell us about your experience, including when it happened?
* if not, do you support the existing arrangements. If so, why?

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Do you have any comment on the potential effects of the options? Are you able to quantify potential effects on compliance costs?

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Do you think the right reform options (pp. 25 – 26) have been identified, and:

* if so, which of the options identified do you prefer and why?
* if not, what alternative option would you support and why?

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Do you consider that raising the threshold for exemption from screening to leases with terms of 10 years or more is appropriate, and:

* if so, why do you consider this the appropriate threshold?
* if not, what alternative threshold would you support, and why?

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### 3. Technical issue: periodic leases (p. 27)

Do you agree that there is a problem, and

* if so, has this paper described it accurately? Can you tell us about your experience, including when it happened?
* if not, do you support the existing arrangements. If so, why?

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Do you have any comment on the potential effect of the option? Are you able to quantify potential effects on compliance costs?

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Do you think the right reform option (p. 27) has been identified, and:

* if so, why?
* if not, what alternative option would you support and why?

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### 4. Definition of overseas person as it applies to bodies corporates (p. 31)

Do you agree that there is a problem, and

* if so, has this paper described it accurately? Can you tell us about your experience, including when it happened?
* if not, do you support the existing arrangements. If so, why?

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Do you have any comment on the potential effects of the options? Are you able to quantify potential effects on compliance costs?

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Do you think the right reform options (pp. 32 – 35) have been identified, and:

* if so, which of the options identified do you prefer and why?
* if not, what alternative option would you support and why?

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Have the right requirements (pp. 34 – 35) been identified for the exemption in Option 4?

* if not, what requirements, or additional requirements, do you think should be included?

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### 5. Screening of portfolio investors (p. 38)

Do you agree that there is a problem, and

* if so, has this paper described it accurately? Can you tell us about your experience, including when it happened?
* if not, do you support the existing arrangements. If so, why?

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Do you have any comment on the potential effects of the options? Are you able to quantify potential effects on compliance costs?

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Do you think the right reform options (pp. 39 – 40) have been identified, and:

* if so, which of the options identified do you prefer and why?
* if not, what alternative option would you support and why?

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### 6. Technical issue: Tipping point for requiring consent (p. 42)

Do you agree that there is a problem, and

* if so, has this paper described it accurately? Can you tell us about your experience, including when it happened?
* if not, do you support the existing arrangements. If so, why?

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Do you have any comment on the potential effects of the options? Are you able to quantify potential effects on compliance costs?

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Do you think the right reform options (p. 43) have been identified, and:

* if so, which of the options identified do you prefer and why?
* if not, what alternative option would you support and why?

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### 7. Technical issue: Incremental investments above a 25 per cent interest (p. 45)

Do you agree that there is a problem, and

* if so, has this paper described it accurately? Can you tell us about your experience, including when it happened?
* if not, do you support the existing arrangements. If so, why?

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Do you have any comment on the potential effects of the options? Are you able to quantify potential effects on compliance costs?

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Do you think the right reform options (pp. 47 – 48) have been identified, and:

* if so, which of the options identified do you prefer and why?
* if not, what alternative option would you support and why?

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### 8. Assessing investors’ character and capacity (p. 51)

Do you agree that there is a problem, and

* if so, has this paper described it accurately? Can you tell us about your experience, including when it happened?
* if not, do you support the existing arrangements. If so, why?

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Do you have any comment on the potential effects of the options? Are you able to quantify potential effects on compliance costs?

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Do you think the right reform options (pp. 56 – 57) have been identified, and:

* if so, which of the options identified do you prefer and why?
* if not, what alternative option would you support and why?

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What types of allegation relating to potential criminal or civil offences do you think should be included in Option 2, if adopted, and why?

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What factors do you think should be included in the bright-line test in Option 3, if adopted, and why?

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### 9. Screening the impacts of investment (p. 60)

Do you agree that there is a problem, and

* if so, has this paper described it accurately? Can you tell us about your experience, including when it happened?
* if not, do you support the existing arrangements. If so, why?

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Do you have any comment on the potential effects of the options? Are you able to quantify potential effects on compliance costs?

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Do you think the right reform options (pp. 67 – 76) have been identified, and:

* if so, which of the options identified do you prefer and why?
* if not, what alternative option would you support and why?

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Do you think the Act should expressly enable decision makers to consider any negative effects of a proposed investment, as described in Option 1? Why/Why not?

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Do you think the right risks have been identified in the definition of substantial harm in Option 2, and:

* if so, why do you think this?
* if not, which other risks do you suggest and why?

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Do you think the right factors have been identified in the simplified benefit to New Zealand test in Options 2 and 3, and:

* if so, why do you think this?
* if not, which other factors do you suggest and why?

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Do you agree that the ‘substantial and identifiable benefit’ threshold for non-urban land over five hectares should be removed from the simplified benefit to New Zealand test in Options 2 and 3? Why/Why not:

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Do you think the right industries have been identified as industries of strategic importance in Option 3, and:

* if so, why do you think this?
* if not, which other industries do you suggest and why?

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If a national security and public order call-in power were adopted (as proposed under Option 5), do you have a view on:

* which agency or agencies should be responsible for assessing prospective transactions (for example, the OIO, security agencies or an alternative) and, if so, why do you think this?
* how the government could become aware of transactions that could be called in for screening (that is, a compulsory, voluntary or combined approach, or another option entirely) and, if so, why do you think this?
* which Minister should be responsible for making decisions under this test and, if so, why do you think this?
* whether the responsible Minister (whoever that should be) should have to consult other Ministers before denying consent to a transaction using this power and, if so, which Ministers and why do you think this?

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### 10. Water extraction and the Act (p. 82)

Do you agree that there is a problem, and

* if so, has this paper described it accurately? Can you tell us about your experience, including when it happened?
* if not, do you support the existing arrangements. If so, why?

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Do you think the right reform options (p. 83) have been identified, and:

* if so, which of the options identified do you prefer and why?
* if not, what alternative option would you support and why?

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Do you have any comment on the potential effects of the options? Are you able to quantify potential effects on compliance costs?

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### 11. Tax and the Act (p. 85)

Do you agree that there is a problem, and

* if so, has this paper described it accurately? Can you tell us about your experience, including when it happened?
* if not, do you support the existing arrangements. If so, why?

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Do you have any comment on the potential effects of the options? Are you able to quantify potential effects on compliance costs?

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Do you think the right reform options (pp. 85 – 86) have been identified, and:

* if so, which of the options identified do you prefer and why?
* if not, what alternative option would you support and why?

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### 12. Māori cultural values and the Act (p. 88)

Do you agree that there is a problem, and

* if so, has this paper described it accurately? Can you tell us about your experience, including when it happened?
* if not, do you support the existing arrangements. If so, why?

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Do you have any comment on the potential effects of the options? Are you able to quantify potential effects on compliance costs?

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Do you think the right reform options (p. 89) have been identified, and:

* if so, which of the options identified do you prefer and why?
* if not, what alternative option would you support and why?

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What types of activity do you think should be defined as relevant arrangements under Option 1, and why do you think this

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### 13. Special land provisions (p. 91)

Do you agree that there is a problem, and

* if so, has this paper described it accurately? Can you tell us about your experience, including when it happened?
* if not, do you support the existing arrangements. If so, why?

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Do you have any comment on the potential effects of the options? Are you able to quantify potential effects on compliance costs?

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Do you think the right reform options (p. 93) have been identified, and:

* if so, which of the options identified do you prefer and why?
* if not, what alternative option would you support and why?

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### 14. Farmland advertising (p. 95)

Do you agree that there is a problem, and

* if so, has this paper described it accurately? Can you tell us about your experience, including when it happened?
* if not, do you support the existing arrangements. If so, why?

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Do you have any comment on the potential effects of the options? Are you able to quantify potential effects on compliance costs?

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Do you think the right reform options (p. 96) have been identified, and:

* if so, which of the options identified do you prefer and why?
* if not, what alternative option would you support and why?

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### 15. Timeframes for decisions (p. 98)

Do you agree that there is a problem, and

* if so, has this paper described it accurately? Can you tell us about your experience, including when it happened?
* if not, do you support the existing arrangements. If so, why?

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Do you have any comment on the potential effects of the options and sub-options? Are you able to quantify potential effects on compliance costs?

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Do you think the right reform options and sub-options (pp. 99 – 100) have been identified, and:

* if so, which of the options and sub-options identified do you prefer and why?
* if not, what alternative option and/or sub-option would you support and why?

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What do you consider to be the appropriate timeframes and why?

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Do you agree that consent should be deemed granted if no decision is made within the prescribed time period and, if so, why do you think that?

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## Experience with the Overseas Investment Office

If you have any feedback on your operational experience with the Overseas Investment Office, please share it with us below so they can use it in their continuous improvement programme:

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## Other comments on the regime?

If you have any other comments on New Zealand’s overseas investment regime, please share them with us below:

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1. The text that you do not want published must be clearly marked in the submission. [↑](#footnote-ref-1)