



Overseas Investment Commission

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IMPORTANT NOTICE

This document was archived as at 24th August 2005 when the Overseas Investment Commission was disestablished under the Overseas Investment Act 2005 and its function was transferred to Land Information New Zealand.

For the most up-to-date information relating to New Zealand's current Overseas Investment regime please visit the publications page under the new Overseas Investment Office's sub-site accessible from the main LINZ website www.linz.govt.nz or contact the Office direct by emailing oiio@linz.govt.nz or phoning +64 (0)4 462 4490.

6 July 2000 (Received 21 July 2000)

Chairman
Overseas Investment Commission
P O Box 2498
WELLINGTON

Dear Mr Webb

OVERSEAS INVESTMENT POLICY, DELEGATION AND CRITERIA

- 1 This letter conveys the Government's general policy approach to overseas investment and indicates the delegated authority for the Overseas Investment Commission (the Commission) and its staff to determine applications and related matters as from the date of this letter.
- 2 The Government has decided to alter the previous letter issued on 19 November 1999 to ensure that there are no doubts that the Commission's responsibilities under its legislation should be exercised in a neutral manner. We have also decided that, due to the sensitive nature of overseas ownership of New Zealand fishing quota and the small number of applications in that field, all fishing quota applications should be dealt with by Ministers.
- 3 Please note that these changes are technical in nature and the Government remains committed to an open and facilitative overseas investment regime.

GENERAL POLICY APPROACH

- 4 Section 9(2) of the Overseas Investment Act 1973 (the Act) requires the Commission to "comply with the general policy of the Government...transmitted in writing...by ...the Minister (Treasurer) and the Minister Of Lands". We wish to convey the following general policy of the Government in relation to the exercise of the Commission's functions, powers, and duties:
 - a. the Government recognises the need for overseas capital and welcomes and encourages investment which meets the tests set out in the legislation.
 - b. the Commission's operating procedures should be consistent with the Government's intention to facilitate positive investment. Accordingly, the Commission should:

- i. perform its functions and administer the legislation it has responsibility for in a timely, consistent and efficient manner
- ii. seek to minimise the compliance and transactions costs to the private sector of the investment regime;
- iii. seek sufficient information from applicants for it to be assured about the accuracy of the information supplied;
- iv. seek sufficient evidence from applicants for it to be able to judge whether any national interest benefits claimed by them are likely to eventuate;
- v. when it considers it necessary to verify that information or that evidence, seek input from government agencies or others it considers have particular competence in relation to that application;
- vi. seek to recover its operating costs, through fees that must be approved by the Treasurer, from persons who use its services;
- vii. continue to advise Ministers on proposals with the presumption that the investment will be compatible with the policy of the Government relating to any other matter;
- viii. continue to monitor compliance with any conditions of approval, consent, permission, or exemption granted under the legislation with an approach that seeks a balance between the objectives of ensuring compliance with any conditions and providing the Commission with more accurate statistics on investment, and the desire to maintain a welcoming approach to investment; and
- ix. continue the practice of the Commission's staff performing the Commission's day-to-day functions, with the Commission's role being primarily one of governance and overview.

5 We are aware that the Commission compiles information on investment in New Zealand in the course of performing its functions. To the extent that existing resources permit, the Commission, in conjunction with other relevant agencies, should:

- a. disseminate information on investment in New Zealand; and
- b. publicise and explain the nature of our regulatory regime to potential overseas investors and domestically.

DELEGATION

- 6 The Treasurer delegates to the Commission and its staff the power to determine all applications under Part II of the Overseas Investment Regulations 1995 (the Regulations).
- 7 The Treasurer and the Minister for Land Information (the Ministers) delegate to the Commission and its staff, in relation to Part III of the Regulations:
 - a. their powers to determine applications which do not involve "sensitive" land as described in the First Schedule to the Act and Regulations under the headings of Islands, and Foreshore, lakes and reserves and Land over 0.4 hectares on certain islands;
 - b. notwithstanding (a) above, their powers to determine land applications:
 - i. that do not involve a freehold estate or other estate or interest in land equivalent to a freehold estate; or
 - ii. that are part of a purchasing programme previously approved by Ministers under the Overseas Investment Regulations 1985 and 1995 or the Land Settlement Promotion and Land Acquisition Act 1952, where each acquisition is consistent with any conditions established for the programme; or
 - iii. involving land that is "sensitive" solely because it includes or adjoins a marginal strip that extends along or abuts any river or stream.
- 8 The Ministers also delegate to the Commission and its staff the following related matters:
 - a. their powers under Regulation 12 to specify information and particulars to be supplied by applicants;
 - b. their powers under regulation 14 in respect of applications:
 - i. which have been delegated in terms of paragraphs 6 and 7 above; or
 - ii. which have been initially considered by the Minister and that require an administrative amendment;
 - c. their powers under Regulations 16 in respect of applications that have been delegated in terms of paragraphs 6 and 7 above;
 - d. their powers under Regulations 16 in respect of adding entities to or deleting entities from the Schedules to the Overseas Investment Exemption Notice 1995;

- e. their powers under Regulation 17 in respect of any matter delegated;
- f. their powers under Section 15 of the Act in respect of applications that have been delegated; and
- g. in each case where a power has been delegated, the power of delegation under Section 16 of the Act.

CRITERIA

- 9 In considering any applications under the Overseas Investment Act 1973 under delegation the Commission and its staff must take into account the matters provided for under section 14A of the Overseas Investment Act 1973.

REVOCATION OF EXISTING DELEGATION

- 10 The existing delegation conferred on the Commission and its staff on 19 November 1999 is hereby revoked as from the date of this letter.

Hon Dr Michael Cullen
Treasurer

Hon Trevor Mallard
Acting Minister of Land Information

Hon Pete Hodgson
Minister of Fisheries