

International Transactions

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There have been no recent updates to this resource.

Introduction

An international transaction is the sale of a sensitive New Zealand asset in another jurisdiction. For example, an international transaction is the sale in Australia of the majority of the shares in an Australian registered company, which owns sensitive New Zealand assets, to another Australian registered company.

International transactions are overseas investment transactions and require consent.

Consent is only required if you are an overseas person as defined in New Zealand's legislation and the investment includes sensitive New Zealand assets. To find out if consent is required see the OIO website "Do I need consent?" or consult your lawyer and/or a lawyer with significant experience in overseas investments.

Legislation

The definitions of overseas investment in sensitive land, overseas investment in significant business assets and overseas investment in fishing quota are very broad, and if taken literally, would seem to capture all transactions regardless of whether they had any connection with New Zealand.

The OIO believes that those definitions must be interpreted in light of section 3 of the Overseas Investment Act 2005. Accordingly, the definition of overseas investment:

- in sensitive land only refers to New Zealand land, and
- in significant business assets only refers to New Zealand significant business assets.

The definition of overseas investment in fishing quota refers to all fishing quota as defined by the Fisheries Act 1996.

Breaches

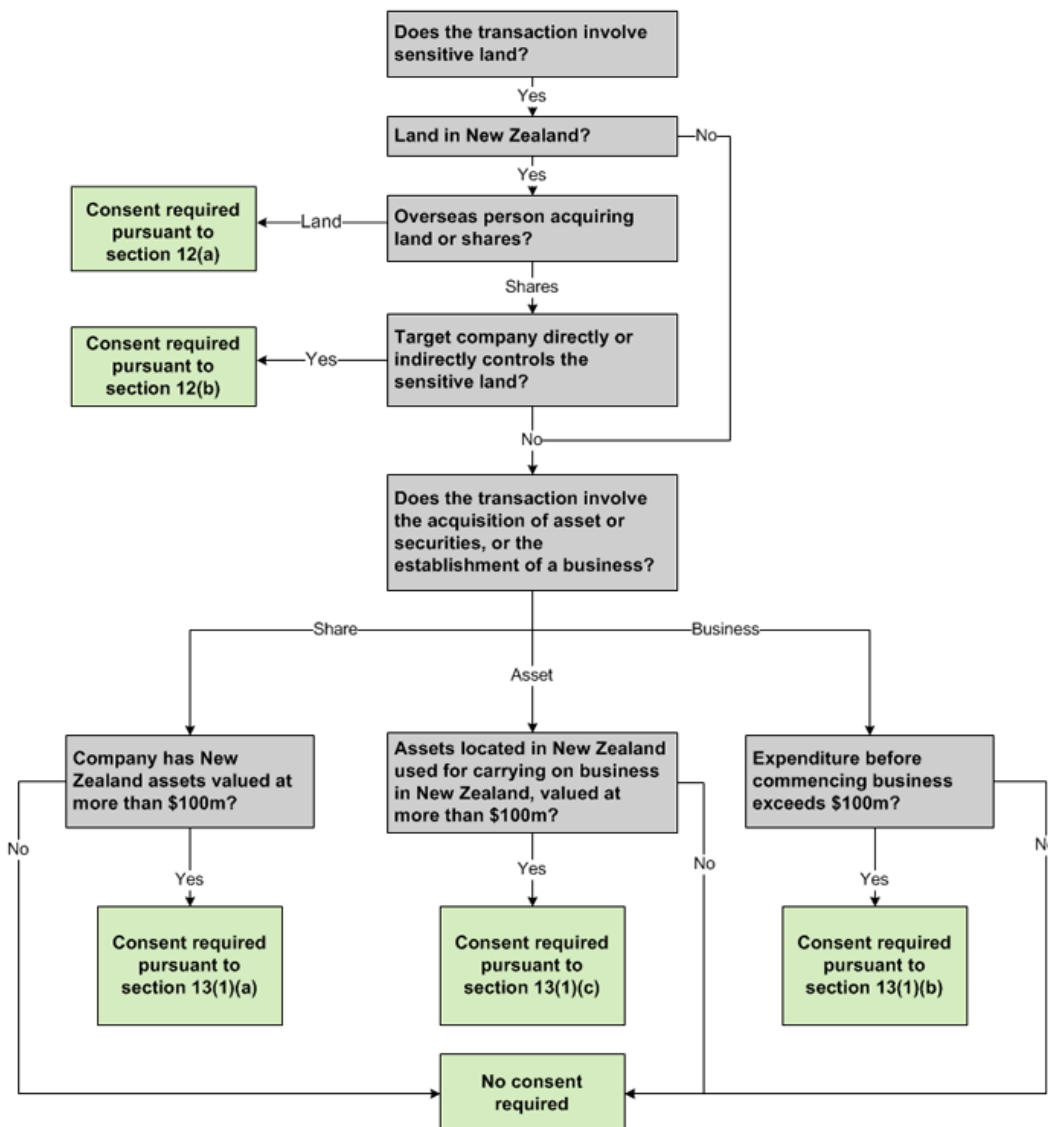
If a transaction is inadvertently given effect, then in some circumstances consent can still be granted retrospectively (refer to section 25(1)(f) of the Act), although a penalty will be payable (refer to section 53 of the Act).

However, note that an overseas person who gives effect to a transaction before being granted consent:

- will commit an offence against section 42 of the Act
- will reduce their chances of ultimately being granted retrospective consent - the applicant's good character (one of the criteria for consent) may be called into question, and
- section 29 allows a party to the transaction who was not required to obtain consent to cancel a transaction by giving notice in writing to all other parties.

Process diagram

The following process applies to sensitive land and significant business assets transactions only. Please contact the OIO if you are planning an overseas investment in fishing quota.



On the OIO website you can download this diagram to enlarge or print a copy.

Apply for consent

Further criteria must be satisfied before consent can be granted, depending on the nature of the investment.

For further criteria see the OIO's resources on either:

- Sensitive Land, and/or
- Significant Business Assets/Fishing Quota.

Further information

Visit the OIO website at www.linz.govt.nz/oio to find related links, documents and answers to frequently asked questions. Read the Overseas Investment Act 2005 and the Overseas Investment Regulations on www.legislation.govt.nz.

If you require further information, please contact the OIO.

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