



Office of Hon Bill English

Deputy Prime Minister
Minister of Finance
Minister for Infrastructure

22 APR 2009

Mr Colin MacDonald
Chief Executive
Land Information New Zealand
Private Box 5501
WELLINGTON

Dear Mr MacDonald

Designation and Delegation Letter

1. In accordance with section 30 of the Overseas Investment Act 2005 (the Act) the Minister of Finance designates Land Information New Zealand as the regulating department and the Chief Executive of Land Information New Zealand as the regulator (the regulator).

Delegation

2. In accordance with section 32 of the Act, the Minister of Finance and Minister for Land Information delegate to the regulator the following powers and functions.
3. The Minister of Finance delegates to the regulator the power to make all decisions under the Act on whether or not to grant consent to an overseas investment in significant business assets (business decision).
4. The Minister of Finance and Minister for Land Information delegate to the regulator:
 - (a) the power to make all decisions under the Act on whether or not to grant consent to an overseas investment in sensitive land (land decision)
 - (i) where the criterion in section 16(1)(e)(i) of the Act applies (the relevant overseas person is (or if that person is not an individual) all the individuals with control over the relevant overseas person are, New Zealand citizens, ordinarily resident in New Zealand, or intending to reside in New Zealand indefinitely); or
 - (ii) where the criterion in section 16(1)(e)(iii) of the Act does not apply (i.e. where the relevant overseas person is not required to show that its investment will or is likely to result in substantial and identifiable benefits), except where the land
 - is, or includes, special land; or
 - is, or includes, land on other islands (as further referred to in Table 1 of Schedule 1 of the Act);

- is or includes or adjoins the foreshore or seabed or the bed of a lake where the land exceeds the relevant area thresholds (if any) in Table 1 or Table 2 of Schedule 1 of the Act; or
 - (iii) even if section 16(1)(e)(iii) of the Act applies, where the interest to be acquired under the overseas investment is
 - a leasehold interest in land (other than a reviewable lease, as defined by the Crown Pastoral Land Act 1998); or
 - an interest in land as mortgagee or encumbrancee; or
 - (iv) even if section 16(1)(e)(iii) of the Act applies, where the land
 - is not, or does not include any other land of a type listed in Table 1 of Schedule 1; and
 - does not adjoin land of a type listed in Table 2 of Schedule 1 of the Act; and
 - is not, or does not include, special land; or
 - (v) where the acquisition is part of a purchasing programme for which consent has previously been granted by the relevant Ministers under the Act, where each acquisition is consistent with any conditions imposed for that programme;
- (b) when deciding an application under delegated authority and section 16(1)(e)(ii) applies, the powers under section 17(1) of the Act:
- (i) to determine which of the factors listed in section 17(2) of the Act and regulation 28 of the Overseas Investment Regulations 2005 (the Regulations) are relevant to the particular overseas investment; and
 - (ii) to determine whether the criteria in section 16(1)(e)(ii) and (iii) are met after having regard to those relevant factors; and
 - (iii) to determine the relative importance to be given to each relevant factor (or part).
- (c) the power under section 20(a) of the Act, to grant exemptions from the farm land offer criterion;
- (d) the function under regulation 13 of the Regulations of receiving written notices from the current owner of relevant land stating that the owner intends to give effect to an overseas investment transaction in respect of that land, which land is or includes special land;
- (e) the power under regulation 22(1) of the Regulations, to negotiate in good faith with the owner to attempt to conclude an agreement in principle to the terms and conditions of the acquisition by the Crown of the special land;
- (f) the power under regulation 22(3) of the Regulations to
 - (i) determine that the market value of the special land is negligible;
 - (ii) negotiate the agreement in principle to provide that, subject to consent being given to the relevant overseas investment transaction, the Crown is to acquire the special land for no consideration;
- (g) the function under regulation 22(5) of the Regulations, to be given regulation 22(4) offers of special land;

5. The Minister of Finance, in relation to business decisions, and the Minister of Finance and the Minister for Land Information, in relation to land decisions, delegate to the regulator:
 - (a) the power under section 14(1)(b) of the Act to consult with any other person or persons, as the regulator thinks appropriate;
 - (b) the powers under section 15 of the Act:
 - (i) to determine which one or more of the persons listed in subsection (1) is the relevant overseas person for any particular overseas investment; and
 - (ii) to determine which one or more of the categories of persons listed in subsection (2) are the individuals with control of the relevant overseas person for any particular overseas investment.
 - (c) the power under section 23(1)(c) of the Act, to specify, by notice in the Gazette, the information that must be contained in the application for consent;
 - (d) when deciding an application under delegated authority the power under section 25 of the Act to refuse consent, or grant consent:
 - (i) in respect of a proposed or specified transaction, instrument or person;
 - (ii) in respect of classes of transactions, instruments or persons, and to determine those classes of transactions, instruments or persons;
 - (iii) unconditionally, or subject to conditions, and to determine the appropriateness of those conditions;
 - (iv) subject to the payment of a bond;
 - (v) in whole or in part;
 - (vi) retrospectively;
 - (e) the power under section 26 of the Act to revoke a consent in the case of fraud;
 - (f) the power under section 27 of the Act to
 - (i) vary a consent with the agreement of the consent holder;
 - (ii) vary or add to conditions of consent with the agreement of the consent holder;
 - (iii) revoke a condition of consent;
 - (g) the power under section 28(2) of the Act, to enter into a contract or deed with an applicant for the purpose of enforcing a condition;
 - (h) the power under regulation 37 of the Regulations to
 - (i) grant an exemption on any terms and conditions that the regulator thinks fit;
 - (ii) amend or revoke any exemption;
 - (i) the power under regulation 39 of the Regulations to
 - (i) give notice of the exercise of any powers under the Act or the Regulations; and
 - (ii) amend or revoke a regulation 39 notice;
 - (j) any actions under regulation 40 of the Regulations, relating to service of notices or other documents; and
 - (k) in each case where a power or function has been delegated, the power of delegation under section 32 of the Act.

Transitional Provisions

6. For the avoidance of doubt and subject to section 71 of the Act, the delegations in paragraphs 6 to 8 inclusive of the directive letter dated 6 July 2000 to the Chairman of the Overseas Investment Commission continue to apply to any determinations or other matters to which the relevant transitional provisions (sections 76 to 78 inclusive) of the Act apply.

Revocation

7. The Minister of Finance and the Minister for Land Information hereby revoke the Designation and Delegation Letter dated 12 December 2007 with effect from the date that this letter is to take effect.

Date Letter Takes Effect

8. This Ministerial designation and delegation letter will take effect on and from 27 April 2009.

Yours sincerely

Hon Bill English
Minister of Finance

Hon Dr Richard Worth
Minister for Land Information