

OVERSEAS INVESTMENT AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Overseas Investment Act 1973.

Clause 1: This clause specifies the Short Title of the Bill, and provides for it to come into force on a date to be appointed by Order in Council.

Clause 2: The effects of the amendments to the definition of the term "nominee" are as follows:

- (a) To apply the definition to New Zealand building societies as well as to companies:
- (b) To exclude from the definition a company or building society that, although it holds shares in or participates in the profits of an overseas person or its nominee, does not do so for the benefit of any overseas person or its nominee:
- (c) To include in the definition any overseas person who in relation to any transaction acts jointly or in concert with any other overseas person or its nominee.

The effect of the amendments to the definition of the term "overseas person" are to widen that definition to cover companies and building societies in which either—

- (a) 25 percent or more of any class of shares is held by overseas persons;
- or
- (b) 25 percent or more of the voting power in general meetings is held by overseas persons.

Clause 3: This amendment corrects a minor clerical error in the principal Act.

Clause 4: The effect of this amendment is to provide that regulations may be made controlling the commencement of business in New Zealand by any overseas persons. At present, the relevant section of the principal Act only relates to foreign bodies corporate.

Right Hon. Mr Muldoon

OVERSEAS INVESTMENT AMENDMENT

ANALYSIS

Title	2. Interpretation
1. Short Title and commencement	3. Casual vacancies in Commission
	4. Regulations

A BILL INTITULED

An Act to amend the Overseas Investment Act 1973

BE IT ENACTED by the General Assembly of New Zealand
in Parliament assembled, and by the authority of the same,
5 as follows:

1. Short Title and commencement—(1) This Act may be
cited as the Overseas Investment Amendment Act 1977, and
shall be read together with and deemed part of the Overseas
Investment Act 1973* (hereinafter referred to as the prin-
10 cipal Act).

(2) This Act shall come into force on a date to be appointed
by the Governor-General by Order in Council.

2. Interpretation—(1) Section 2 (1) of the principal Act
is hereby amended by inserting, in its appropriate alpha-
15 betical order, the following definition:

“Building society” means a building society within the
meaning of the Building Societies Act 1965:”

*1973, No. 14

(2) Section 2 (1) of the principal Act is hereby further amended—

(a) By inserting in paragraphs (a) and (c) of the definition of the term “nominee”, after the word “company”, in every place where it occurs, the words “or building society”:

(b) By repealing paragraph (b) of the definition of the term “nominee”, and substituting the following paragraph:

“(b) Any company or building society that— 10

“(i) Directly or indirectly controls or is interested in (whether beneficially or otherwise) any shares in the capital of the overseas person or a nominee of the overseas person; or 15

“(ii) Is entitled, directly or indirectly, to any part of the profits of the overseas person or a nominee of the overseas person—

where the acquisition of those shares or the entitlement to that part of those profits was entered into or obtained for the benefit of an overseas person or a nominee of an overseas person.” 20

(c) By adding to the definition of the term “nominee”, after paragraph (d), the following paragraph:

“(e) Any overseas person who—

“(i) In any transaction acts jointly or in concert with any other overseas person or any nominee of an overseas person; or 30

“(ii) Undertakes or participates in any transaction in consequence of any arrangement made between him and any other overseas person or any nominee of an overseas person— 35

whether or not, in respect of the transaction or the arrangement, the relationship between the first overseas person and the other overseas person or the nominee is such as to confer legally enforceable rights on either party.” 40

(3) Section 2 (1) of the principal Act is hereby further amended by repealing the definition of the term “overseas person”, and substituting the following definition:

“ ‘Overseas person’ means—

“(a) Any person not ordinarily resident in New Zealand; or

5

“(b) Any company or body corporate that is incorporated outside New Zealand, or any company within the meaning of the Companies Act 1955 that is for the purposes of that Act a subsidiary of any company or body corporate incorporated outside New Zealand; or

10

“(c) Any company within the meaning of the Companies Act 1955, or building society, in which—

“(i) Twenty-five percent or more of any class of shares is held by any overseas person or overseas persons; or

15

“(ii) The right to exercise or control the exercise of 25 percent or more of the voting power at any general meeting of the company or building society is held by any overseas person or overseas persons; or

20

“(d) Any nominee of an overseas person, whether or not the nominee is himself otherwise an overseas person:”.

25 **3. Casual vacancies in Commission**—Section 6 (1) of the principal Act is hereby amended by omitting the word “Council”, and substituting the word “Commission”.

4. Regulations—Section 14 (2) of the principal Act is hereby amended by omitting from paragraph (a) the words “bodies incorporated outside New Zealand”, and substituting the words “any overseas person”.