

[AS REPORTED FROM THE PRIMARY PRODUCTION COMMITTEE]

House of Representatives, 30 March 1995.

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a single rule, or with single rule before first line and after last line.

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE HOUSE]

House of Representatives, 9 August 1995.

Words struck out are shown in italics within double bold round brackets, or with double black rule at beginning and after last line; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line.

Rt. Hon. W. F. Birch

OVERSEAS INVESTMENT AMENDMENT

ANALYSIS

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A BILL INTITULED

An Act to amend the Overseas Investment Act 1973

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Overseas Investment Amendment Act 1994, and shall be read together with and deemed part of the Overseas Investment Act 1973* (hereinafter referred to as the principal Act). 5

(2) Except as provided in **subsection (3)** of this section, this Act shall come into force on the date on which it receives the Royal assent. 10

(3) **Sections 2, (4), 2A, 4, 6 (1) and (3), 6A, 7, 8, 10, and 13 to 16** of, and the **First and Second Schedules** to, this Act shall come into force on a date to be appointed by the Governor-General by Order in Council. 15

2. Interpretation—*Struck Out*

(1) Section 2 (1) of the principal Act is hereby amended by inserting, after the definition of the term “head office”, the following definition: 20

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(1) Section 2 (1) of the principal Act is hereby amended by inserting, before the definition of the term “building society”, the following definitions: 25

“ ‘Associated land’ in relation to any land in which any person owns or controls, or will as a result of any transaction entered into or to be entered into, own or control, any estate or interest, includes any land— 25

“(a) That is contiguous or adjacent to that land or, where that land forms part of any island specified in **Part II of the Schedule** to this Act, forms part of the same island; and 30

“(b) In which any estate or interest is owned or controlled by that person or any associated person; or 35

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5 “(c) In which any estate or interest will, as a result of any transaction entered into or to be entered into, be owned or controlled by that person or any associated person:

“‘Associated person’ has the meaning given to it by **section 2A** of this Act.”.

10 (1A) Section 2 (1) of the principal Act is hereby further amended by inserting, after the definition of the term “head office”, the following definition:

“‘Land’ means any land specified in the Schedule to this Act.”.

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

“‘Overseas investment’ means—

20 “(a) Any investment in New Zealand by an overseas person; and includes any proposal for any investment in New Zealand by an overseas person:

“(b) The ownership or acquisition of, or control over, land or any estate or interest in land in New Zealand by an overseas person; and includes any proposal for the ownership or acquisition of, or control over, land or any estate or interest in land in

25 “(c) The ownership or acquisition of, or control over, securities or rights or interests in securities of any company or body corporate that owns or controls directly or indirectly any land or any estate or interest in land in New Zealand by an overseas person; and includes any proposal for the ownership or acquisition of, or control over, any such securities or rights or interests in such securities by an overseas person.”.

30 (3) Section 2 (1) of the principal Act is hereby further amended by repealing the definition of the term “overseas person” (as substituted by section 2 (3) of the Overseas Investment Amendment Act 1977 and amended by section 2 of the Company Law Reform (Transitional Provisions) Act

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40 1994), and substituting the following definition:

“ ‘Overseas person’ means—

“(a) Any person who is not a New Zealand citizen and who is not ordinarily resident in New Zealand:

“(b) Any company or body corporate that is incorporated outside New Zealand, or any company within the meaning of the Companies Act 1955 or the Companies Act 1993, as the case may be, that is for the purposes of the Companies Act 1955 or the Companies Act 1993, a subsidiary of any company or body corporate incorporated outside New Zealand:

“(c) Any company within the meaning of the Companies Act 1955 or the Companies Act 1993, as the case may be, 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

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

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

(4) Section 2 of the principal Act is hereby amended by adding the following subsection:

“(4) For the purposes of **paragraph (a)** of the definition of the term “overseas investment”, investment includes the ownership or acquisition of, or control over, land or any estate or interest in land in New Zealand, whether direct or indirect, and whether or not the land is specified in the Schedule to this Act if the ownership, acquisition, or control is part of a business or undertaking carried on, or to be carried on, for profit or gain.”

(5) The following enactments are hereby consequentially repealed:

(a) Section 2 (3) of the Overseas Investment Amendment Act 1977:

(b) So much of the First Schedule to the Company Law Reform (Transitional Provisions) Act 1994 as relates to the Overseas Investment Act 1973.

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2A. Meaning of “associated person”—The principal Act is hereby amended by inserting, after section 2, the following section:

5 “2A. For the purposes of this Act, one person is associated with another person—

“(a) Where the person is connected to the other person by blood relationship, marriage, or adoption or where the person is a trustee for the other person; and for
10 the purposes of this paragraph—

“(i) Persons are connected by blood relationship if within the fourth degree of relationship:

“(ii) Persons are connected by marriage if one is married to the other or to a person who is connected by blood relationship to the other, or if one has a relationship in the nature of marriage with the other or with a person who is connected by blood relationship to the other:

“(iii) Persons are connected by adoption if one has been adopted as the child of the other or as a child of a person who is within the third degree of relationship to the other:

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“(ab) Where the person is acting with the other person in concert under any contract, arrangement, or understanding in relation to the particular overseas investment:

“(b) If the other person is a company, where the person is a director or officer of the other person, or is related (within the meaning of **paragraph (a)** of this section) to a director or officer of the other person, or is directly or indirectly able to exercise control over the affairs of the other person:

“(c) If the person is a company, where the other person is a director or officer of the person, or is related (within the meaning of **paragraph (a)** of this section) to a director or officer of the person, or is directly or

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indirectly able to exercise control over the affairs of the person:

“(d) If the person and the other person are companies,—

“(i) Where the person is a holding company or a subsidiary of the other person within the meaning of section 158 of the Companies Act 1955 or section 5 of the Companies Act 1993, as the case may be; or

“(ii) Where the person owns or controls shares that in aggregate carry the right to exercise or control the exercise of 20 percent or more of the voting power at meetings of the other person or the other person owns or controls shares that in aggregate carry the right to exercise or control the exercise of 20 percent or more of the voting power at meetings of the person; or

“(iii) Where the person and the other person have the same holding company within the meaning of section 158 of the Companies Act 1955 or section 5 of the Companies Act 1993, or a third person owns or controls shares in each of them that carry the right to exercise or control the exercise of 20 percent or more of the voting power at meetings of each of them,—

and ‘associated person’ has a corresponding meaning.”

3. Overseas Investment Commission—Section 3 (2) of the principal Act is hereby amended by repealing paragraph (d), and substituting the following paragraph:

“(d) The Secretary of Commerce or such other officer of the Ministry of Commerce as the Secretary of Commerce may from time to time nominate as his or her representative.”

4. Functions of Commission—The principal Act is hereby amended by repealing section 9, and substituting the following section:

“9. (1) The functions of the Commission shall be—

“(a) To consider proposals concerning overseas investment that are to be submitted for approval, consent,

permission, or exemption in accordance with regulations made under this Act:

5 “(b) To advise the Minister and, in the case of proposals for overseas investment of the kind referred to in paragraph (b) or paragraph (c) of the definition of that term in section 2 (1) of this Act, the Minister of Lands, or, as regulations made under this Act may so require, to determine, *(, whether the proposals so submitted are in the national interest and)* whether any approval, consent, permission, or exemption to them should be given:

10 “(c) To advise the Minister and, in the case of any proposal for any overseas investment of the kind referred to in paragraph (b) or paragraph (c) of the definition of that term in section 2 (1) of this Act, the Minister of Lands, or, as regulations made under this Act may so require, to decide, on the compatibility of any proposal for overseas investment with the policy of the Government relating to any other matter:

15 “(d) To advise the Government on such means as will ensure that the fullest possible benefit from overseas investment will accrue to New Zealand in promoting economic growth and development by the efficient utilisation of resources, and the highest degree of production, trade, and employment:

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30 “(e) To keep under continuous supervision, and, if regulations made under this Act so require, to control, the level and extent to which overseas persons may own or control property in New Zealand, and to report from time to time on this matter to the Minister and, in the case of overseas investment of the kind referred to in paragraph (b) or paragraph (c) of the definition of that term in section 2 (1) of this Act, the Minister of Lands:

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35 “(e) To monitor overseas investment in New Zealand, and, if regulations made under this Act so require, to control the level and extent to which overseas

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persons may own or control property in New Zealand, and to report from time to time on such matters to the Minister and, in the case of overseas investment of the kind referred to in **paragraph (b)** or **paragraph (c)** of the definition of that term in section 2 (1) of this Act, the Minister of Lands: 5

“(f) To monitor compliance with any conditions of any approval, consent, permission, or exemption granted in accordance with regulations made under this Act and to advise the Minister and, in the case of any approval, consent, permission, or exemption relating to any overseas investment of the kind referred to in **paragraph (b)** or **paragraph (c)** of the definition of that term in section 2 (1) of this Act, the Minister of Lands, of any failure to comply with any such condition: 10 15

“(g) To advise the Government on all matters relating to overseas investment in New Zealand:

“(h) To exercise and perform such functions, powers, and duties in relation to overseas investment as are conferred or imposed on it under this Act or regulations made under this Act. 20

“(2) In the exercise of its functions, powers, and duties, the Commission shall comply with the general policy of the Government in relation to the functions of the Commission transmitted in writing from time to time to the Commission by the Minister or the Minister and the Minister of Lands, as the case may be. 25

“(3) The Commission shall also comply with any general or special directions given by the Minister or the Minister and the Minister of Lands, as the case may be, to the Commission by notice in writing pursuant to the policy of the Government in relation to those functions, powers, and duties. 30

“(4) The Minister or the Minister and the Minister of Lands, as the case may be, shall cause a copy of every statement transmitted to the Commission under **subsection (2)** of this section and of every notice given to the Commission under **subsection (3)** of this section to be published in the *Gazette* and laid before the House of Representatives within 6 sitting days of transmitting or giving it.” 35 40

5. Reports—The principal Act is hereby amended by inserting, after section 11, the following section:

5 “11A. (1) The Commission shall, as soon as practicable after the 30th day of June and the 31st day of December in each year, prepare and submit to the Minister a report on the operations of the Commission for the 6 months ending on those dates.

10 “(2) A copy of each report shall be laid before the House of Representatives by the Minister not later than 6 sitting days after receiving it.”

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6. Regulations—(1) The principal Act is hereby amended by repealing section 14 (as amended by section 4 of the Overseas Investment Amendment Act 1977), and substituting the following section:

15 “14. (1) The Governor-General may from time to time, by Order in Council, make regulations prohibiting, controlling, or regulating overseas investment.

20 “(2) Without limiting the generality of **subsection (1)** of this section, regulations may be made under this section—

“(a) Prohibiting, controlling, or regulating—

“(i) The commencement of businesses in New Zealand by overseas persons:

25 “(ii) Any dealing or transaction having the effect of raising or borrowing money outside New Zealand by any person ordinarily resident in New Zealand:

“(iii) Any dealing or transaction having the effect of raising or borrowing money in New Zealand by any overseas person:

30 “(iv) The ownership or acquisition of or control over any securities or rights or interests in securities by any overseas person:

35 “(v) The ownership or acquisition of or control over land or any estate or interest in land in New Zealand by any overseas person:

40 “(vi) The ownership or acquisition of or control over any securities or rights or interests in securities of any company or body corporate that owns or controls directly or indirectly any land or any estate or interest in land in New Zealand by an overseas person:

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- “(b) Prescribing or providing for the fixing of fees and charges in connection with any matter under this Act or regulations made under this Act:
- “(c) Providing for such other matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration. 5
- “(3) Without limiting the generality of **subsections (1) and (2)** of this section, regulations may be made under this section for all or any of the following purposes: 10
- “(a) The registration of securities in the name of, or the issue, sale, transfer, or delivery of securities to, or the furnishing of information in relation to the ownership or acquisition of or control over securities or rights or interests in securities by, any overseas person: 15
- “(b) Providing for the granting, refusal, and revocation of consents, permissions, and exemptions in respect of any matter to which any regulations made under this Act relate; and authorising the imposition, variation, and revocation of conditions subject to which any consent, permission, or exemption may be granted: 20
- “(c) Providing for the furnishing of information and the production of books and documents to the Minister and the Minister of Lands or the Commission or any other person for the purposes of any provision of this Act or any regulations made under this Act relating to the ownership or acquisition of, or control over— 25
- “(i) Land or any estate or interest in land in New Zealand; or 30
- “(ii) Securities or rights or interests in securities of any company or body corporate that owns or controls directly or indirectly any land or any estate or interest in land in New Zealand: 35
- “(d) Providing for the furnishing of information and the production of books or documents to the Minister or the Commission or any other person for the purposes of any provision of this Act or any regulations made under this Act relating to any other matter: 40

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“(e) Providing for the verification of information furnished pursuant to regulations made under **paragraph (c)** or **paragraph (d)** of this subsection:

5 “(f) Authorising the Minister and the Minister of Lands or the Commission or any other person to exercise any discretionary power or authority for the purposes of any provision of this Act or any regulations made under this Act relating to the ownership or

10 acquisition of, or control over—
“(i) Land or any estate or interest in land in New Zealand; or
“(ii) Securities or rights or interests in securities of any company or body corporate that owns or controls directly or indirectly any land or any estate or interest in land in New Zealand:

15 “(g) Authorising the Minister or the Commission or any other person to exercise any discretionary power or authority for the purposes of any provision of this Act or any regulations made under this Act relating to any other matter:

20 “(h) Specifying criteria for the exercise of any such discretionary power or authority:
“(i) Providing for and regulating the giving or service of notices for the purposes of this Act or of any regulations made under this Act, and the effect of such notices.

25 “(4) Terms used in any regulations made under this section shall, unless the context otherwise requires, have the meanings given to those terms by section 2(1) of this Act as if that section had been amended by **section 2** of the Overseas Investment Amendment Act **1994** before the making of the regulations.”

30 (2) Section 4 of the Overseas Investment Amendment Act
35 1977 is hereby consequentially repealed.

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6. Regulations—(1) The principal Act is hereby amended by repealing section 14 (as amended by section 4 of the

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Overseas Investment Amendment Act 1977), and substituting the following section:

“14. The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes: 5

“(a) Prohibiting, controlling, or regulating overseas investment including:

“(i) The commencement of business in New Zealand by overseas persons: 10

“(ii) Any dealing or transaction having the effect of raising or borrowing money in New Zealand by any overseas person:

“(iii) The ownership or acquisition of, or control over, any securities or rights or interests in securities by any overseas person: 15

“(iv) The ownership or acquisition of, or control over, land or any estate or interest in land in New Zealand by any overseas person:

“(v) The ownership or acquisition of, or control over, securities or rights or interests in securities of any company or body corporate that owns or controls directly or indirectly any land or any estate or interest in land in New Zealand by an overseas person: 20 25

“(b) The registration of securities in the name of, or the issue, sale, transfer, or delivery of securities to, or the furnishing of information in relation to the ownership or acquisition of, or control over, securities or rights or interests in securities by, any overseas person: 30

“(c) Providing for the granting, refusal, and revocation of approvals, consents, permissions, and exemptions in respect of any matter to which any regulations made under this Act relate; and authorising the imposition, variation, and revocation of conditions subject to which any approval, consent, permission, or exemption may be granted: 35

“(d) Providing for the furnishing of information and the production of books and documents to the Minister and the Minister of Lands or the Commission or any other person for the purposes of any provision 40

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- of this Act or any regulations made under this Act relating to the ownership or acquisition of, or control over,—
- 5 “(i) Land or any estate or interest in land in New Zealand; or
- “(ii) Securities or rights or interests in securities of any company or body corporate that owns or controls directly or indirectly any land or any estate or interest in land in New Zealand:
- 10 “(e) Providing for the furnishing of information and the production of books or documents to the Minister or the Commission or any other person for the purposes of any provision of this Act or any regulations made under this Act relating to any
- 15 other matter:
- “(f) Providing for the verification of information furnished pursuant to regulations made under **paragraph (d)** or **paragraph (e)** of this section:
- 20 “(g) Authorising the Minister and the Minister of Lands or the Commission or any other person to exercise any discretionary power or authority for the purposes of any provision of this Act or any regulations made under this Act relating to the ownership or
- 25 acquisition of, or control over,—
- “(i) Land or any estate or interest in land in New Zealand; or
- “(ii) Securities or rights or interests in securities of any company or body corporate that owns or controls directly or indirectly any land or any estate or interest in land in New Zealand:
- 30 “(h) Authorising the Minister or the Commission or any other person to exercise any discretionary power or authority for the purposes of any provision of this Act or any regulations made under this Act relating to any other matter:
- 35 “(i) Specifying the matters to which, for the purposes of **section 14A (2) (d)** of this Act, the Minister and the Minister of Lands (*(may)*) shall have regard:
- 40 “(j) Providing for and regulating the giving or service of notices for the purposes of this Act or of any

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regulations made under this Act, and the effect of such notices:

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“(k) Prescribing or providing for the fixing of fees and charges in connection with any matter under this Act or regulations made under this Act: 5

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“(k) Prescribing or providing for the fixing of fees and charges in connection with— 10

 “(i) Applications for approvals, consents, permissions, or exemptions made under this Act or regulations made under this Act and the consideration of such applications:

 “(ii) Monitoring compliance with the conditions of any approval, consent, permission, or exemption granted under this Act or regulations made under this Act: 15

 “(iii) Any other matter under this Act or regulations made under this Act: 20

“(l) Providing for such other matters as are contemplated by or necessary for giving full effect to this Act and for its due administration.”

(2) Regulations may be made under **section 14** of the principal Act (as substituted by **subsection (1)** of this section) before the date appointed for the coming into force of ~~((this section))~~ that subsection as if ~~((this section))~~ that subsection and **sections 2 and 13** of this Act were in force before the making of the regulations. 25

(3) Section 4 of the Overseas Investment Amendment Act 1977 is hereby consequentially repealed. 30

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6A. Criteria for consent—The principal Act is hereby amended by inserting, after section 14 (as substituted by section 6 of this Act) the following section:

5 “14A. (1) Where, pursuant to this Act or regulations made under this Act, the approval, consent, or permission of the Minister or the Minister and the Minister of Lands, as the case may be, is required to an overseas person undertaking an overseas investment, the Minister or the Minister and the
10 Minister of Lands shall grant that approval, consent, or permission only if satisfied that:

“(a) The overseas person has, or, where the overseas person is not an individual, the individuals exercising control over the overseas person have, business
15 experience and acumen relevant to that overseas investment; and

“(b) The overseas person has demonstrated financial commitment to the overseas investment; and

“(c) Every person who will have not less than a 25 percent
20 beneficial interest in the overseas investment is, or, where the overseas person is not an individual, the individuals exercising control over the overseas person are, of good character and no such person is a person of the kind referred to in section 7 (1) of
25 the Immigration Act 1987; and

“(d) Where the application for such approval, consent, or permission relates to the ownership or acquisition of, or control over,—

“(i) Land or any estate or interest in land in New
30 Zealand; or

“(ii) Securities or rights or interests in securities of any company or body corporate that owns or controls directly or indirectly any land or any estate or interest in land in New Zealand,—
35 the overseas investment would be in the national interest.

“(2) For the purposes of **subsection (1) (d)** of this section, the Minister and the Minister of Lands ~~((may, but are not required to, have regard))~~ shall have regard only to the following matters:

40 “(a) Whether the overseas investment will or is likely to result in—

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“(i) The creation of new job opportunities in New Zealand or the retention of existing jobs in New Zealand that would or might otherwise be lost; or	
“(ii) The introduction into New Zealand of new technology or business skills; or	5
“(iii) The development of new export markets or increased export market access for New Zealand exporters; or	
“(iv) Added market competition, greater efficiency or productivity, or enhanced domestic services, in New Zealand; or	10
“(v) The introduction into New Zealand of additional investment for development purposes; or	
“(vi) Increased processing in New Zealand of New Zealand’s primary products:	15
“(b) Where land is currently being used for agricultural purposes—	
“(i) Whether experimental or research work will be carried out on the land:	20
“(ii) The proposed use of the land by the applicant:	
“(iii) If the overseas person is an individual, whether the overseas person intends to farm the land for his or her own use and benefit and is capable of doing so:	25
“(c) Whether the overseas person or, if the overseas person is not an individual, any individual who exercises control over the overseas person, intends to reside permanently in New Zealand:	30
“(d) Such other matters as may be prescribed:	
“(e) Such other matters as the Minister and the Minister of Lands, having regard to the circumstances of the particular overseas investment, think fit.”	

7. Consents under regulations—The principal Act is hereby amended by repealing section 15, and substituting the following section: 35

“15. (1) If a transaction is entered into or an instrument is executed without the prior consent of the Minister or the Minister and the Minister of Lands, as the case may be, required by any regulations made under this Act, the Minister 40

or the Minister and the Minister of Lands may, at any time, consent to the entry into the transaction or the execution of the instrument.

5 “(2) Subject to the terms of any such consent, any transaction or instrument, and any relationship or interests created by it, that would be invalid or unenforceable without that consent, is, or are, on the giving of that consent, as valid and enforceable as if the consent had been given before the transaction was entered into or the instrument executed.

10 “(3) Consent may be given—

“(a) In respect of such transactions, instruments or persons or (*class*) classes of transactions, instruments, or persons as the Minister or the Minister and the Minister of Lands, as the case may be, determine, or in respect of any specified transaction, instrument, or person:

“(b) Wholly or partly and either unconditionally or subject to such conditions as the Minister or the Minister and the Minister of Lands, as the case may be, think fit.

20 “(4) A consent to the entry into of any transaction or the execution of any instrument is deemed to be a consent given under the regulations requiring the consent.”

8. Delegation—(1) Section 16 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

25 “(1) The Minister or the Minister and the Minister of Lands, as the case may be, may from time to time, delegate in writing to the Commission or any other person any of his or her or their powers under this Act (other than under section 3, or section 4, or **subsection (2)** or **subsection (3)** of section 9 of this Act) or regulations made under this Act (including this power of delegation).”

(2) Section 16 of the principal Act is hereby further amended by omitting from subsection (4) the words “, as the case may require, the Commission, thinks”, and substituting the words “the Minister and the Minister of Lands or the Commission, as the case may require, think”.

35 (3) Section 16 of the principal Act is hereby further amended by omitting from subsection (5), and also from subsection (7), the words “, as the case may require, the Commission”, and substituting the words “the Minister and the Minister of Lands or the Commission, as the case may require”.

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(4) Section 16 (9) of the principal Act is hereby amended by inserting, after the words “Minister or”, in both places where they occur, the words “the Minister of Lands or”.

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9. Confidential information—The principal Act is hereby amended by inserting, after section 16, the following section: 5

“16A. (1) In this section,—

 “‘Applicant’ in relation to confidential information, means a person who has applied for any approval, consent, permission, or exemption pursuant to regulations made under this Act: 10

 “‘Confidential information’ means—

 “(a) Any application for any approval, consent, permission, or exemption made pursuant to regulations under this Act and any decision in relation to that application: 15

 “(b) The fact that an application for any approval, consent, permission, or exemption has been made pursuant to regulations under this Act or that any such application is being considered or has been granted or declined: 20

 “(c) Information supplied to the Minister or the Minister and the Minister of Lands or the Commission, as the case may require, and information derived from information so supplied, being information that is supplied by an applicant for the purposes of, or in connection with, obtaining any approval, consent, permission or exemption pursuant to regulations under this Act;— 25

 but does not include information that is in the public domain or that the applicant has agreed may be published or disclosed or that has, in accordance with this section, ceased to be confidential information. 30

“(2) Subject to this section, section 9 (1) of the Official Information Act 1982 shall be deemed to apply in relation to confidential information. 35

“(3) In any case where confidential information exists in relation to an application, as soon as practicable after a decision in relation to the application is made, the Minister or the Minister and the Minister of Lands or the Commission, as the case may be, shall send to the applicant a statement 40

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5 containing a summary of the confidential information relating to the application that the Minister or the Minister and the Minister of Lands or the Commission, as the case may be, consider is confidential information to which section 9 (1) of the Official Information Act 1982 should cease to apply.

10 “(4) The applicant may, within 21 days after receiving the statement, give notice in writing to the Minister or the Minister and the Minister of Lands or the Commission, as the case may be, stating that the applicant considers that section 9 (1) of the Official Information Act 1982 should continue to apply in relation to such information as is specified in the notice and the reasons therefor.

15 “(5) The Minister or the Minister and the Minister of Lands or the Commission, as the case may be, shall consider any notice under **subsection (4)** of this section and may omit any confidential information from the summary accordingly.

20 “(6) The information contained in a summary issued under **subsection (3)** of this section or, if the summary is amended under **subsection (5)** of this section, the information in the summary as amended, as the case may be, shall cease to be subject to section 9 (1) of the Official Information Act 1982, but all other confidential information relating to the application shall continue to be subject to section 9 (1) of the Official Information Act 1982.”

*Struck Out**New*

30 **9. Application of Official Information Act 1982**—The principal Act is hereby amended by inserting, after section 16, the following section:

“16A. (1) In this section,—

“‘Applicant’ in relation to protected information, means a person who has made an application:

*Struck Out**New*

- “ ‘Application’ means an application for any approval, consent, permission, or exemption made pursuant to regulations under this Act: 5
- “ ‘Protected information’ means—
- “(a) Any application and any decision in relation to that application:
- “(b) The fact that an application has been made or that an application is being considered or has been granted or declined: 10
- “(c) Information supplied to the Minister or the Minister and the Minister of Lands or the Commission, as the case may require, and information derived from information so supplied, being information that is supplied by an applicant for the purposes of, or in connection with, an application;— 15
- but does not include information that is in the public domain or that the applicant has published or disclosed or agreed may be published or disclosed: 20
- “ ‘Protected period’ in relation to an application, means the period beginning when an application is made and ending on the earliest of,—
- “(i) If the applicant does not give a notice under **subsection (4)** of this section in relation to a statement under **subsection (3)** of this section, the expiry of the period referred to in **subsection (4)** of this section or, if the applicant gives such a notice within that period, the date on which the Minister or the Minister and the Minister of Lands or the Commission, as the case may be, finally determines the content of the statement under **subsection (5)** of this section, as the case may be; or 25 30
- “(ii) The date that is 30 days after the final determination of the application; or 35
- “(iii) The date that is 60 days after all information in relation to the application has been supplied to the

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Minister or the Minister and the Minister of Lands or the Commission, as the case may be.

5 “(2) Notwithstanding the Official Information Act 1982, except for the purposes of this Act or regulations made under this Act, no person shall, during the protected period, publish or disclose protected information relating to an application.

10 “(3) Where protected information exists in relation to an application, as soon as practicable after the final determination in relation to the application is made, the Minister or the Minister and the Minister of Lands or the Commission, as the case may be, shall send to the applicant a written statement containing such protected information relating to the
15 application as the Minister or the Minister and the Minister of Lands or the Commission, as the case may be, considers should be made publicly available.

“(4) The applicant may, within 14 days after receiving the statement, give notice in writing to the Minister or the Minister
20 and the Minister of Lands or the Commission, as the case may be, specifying the information that the applicant considers should not be included in the statement and the applicant’s reasons for considering that it should not be included.

“(5) Where the applicant gives a notice under **subsection (4)** of
25 this section, the Minister or the Minister and the Minister of Lands or the Commission, as the case may be, shall consider the notice and may amend the statement by omitting information from it or in such other manner as is thought fit.

“(6) If the applicant does not give a notice under **subsection (4)**
30 of this section, the statement under **subsection (3)** of this section or, if the applicant gives such a notice, the statement as finally determined under **subsection (5)** of this section, as the case may be, shall be made publicly available.

“(7) On and after the expiry of the protected period in
35 respect of an application, all protected information referred to in **paragraph (c)** of the definition of that term in **subsection (1)** of this section, other than protected information contained in a statement under **subsection (3)** of this section or as finally

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determined under **subsection (5)** of this section, as the case may be, shall, for the purposes of section 9 (2) (ba) of the Official Information Act 1982, be deemed to be information which is subject to an obligation of confidence. 5

“(8) Every person who contravenes **subsection (2)** of this section commits an offence against this Act.”

10. Offences against Act—Section 17 (c) of the principal Act is hereby amended by inserting, after the words “Minister or”, the words “the Minister and the Minister of Lands or”. 10

11. Penalties for offences—(1) The principal Act is hereby amended by repealing section 18, and substituting the following section:

“18. Every person who commits an offence against this Act is liable on conviction on indictment,— 15

“(a) In the case of an individual, to imprisonment for a term not exceeding 12 months or to a fine not exceeding \$30,000:

“(b) In the case of a body corporate, to a fine not exceeding \$100,000.” 20

(2) The repeal of section 18 of the principal Act does not affect the amendment to the Summary Proceedings Act 1957 made by subsection (2) of that section.

12. Court may order disposal of property acquired in contravention of regulations—The principal Act is hereby amended by inserting, after **section 18** (as substituted by **section 11** of this Act), the following section: 25

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“18A. (1) In any case where the High Court, on the application of the Commission, is satisfied that any person has acquired any securities or any rights or interests in any 30

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securities, or any land or any estate or interest in land, or any other property or any rights or interests in any other property, as the case may be, in contravention of regulations made under this Act, the Court may, by order, give directions for the disposal by that person of such securities or any rights or interests in such securities, or such land or any estate or interest in such land, or such property or any rights or interests in such property as shall be specified in the order.

5

10 “(2) An application under **subsection (1)** of this section may be made at any time within 2 years from the date on which the contravention occurred.”

New

“18A. (1) In any case where the High Court, on the application of the Commission, is satisfied that any person has in relation to the acquisition of any securities or any rights or interests in any securities, or any land or any estate or interest in land, or any other property or any rights or interests in any other property, as the case may be,—

15

20 “(a) Acted in contravention of this Act or regulations made under this Act; or

“ (b) Failed to comply with any condition of any approval, consent, permission, or exemption granted under this Act or regulations made under this Act,—

25 the Court may, by order, give directions for the disposal by that person of such securities or any rights or interests in such securities, or such land or any estate or interest in such land, or such property or any rights or interests in such property as shall be specified in the order.

30 “(2) An application under **subsection (1)** of this section may be made at any time within 2 years from the date on which the contravention or failure to comply occurred.”

13. Schedule to principal Act—The principal Act is hereby amended by adding the Schedule set out in the **First**

35 Schedule to this Act.

*Repeal of Land Settlement Promotion and Land Acquisition
Act 1952*

14. Land Settlement Promotion and Land Acquisition Act 1952 repealed—The Land Settlement Promotion and Land Acquisition Act 1952 is hereby repealed. 5

(2) The enactments specified in Part I of the **Second** Schedule to this Act are hereby consequentially repealed.

(3) The regulations specified in Part II of the **Second** Schedule to this Act are hereby consequentially revoked.

15. Amendments to Te Ture Whenua Maori Act 1993—(1) Section 152 (1) of Te Ture Whenua Maori Act 1993 is hereby amended by repealing paragraph (c). 10

(2) Section 152 of Te Ture Whenua Maori Act 1993 is hereby amended by repealing subsection (2).

(3) Section 152 of Te Ture Whenua Maori Act 1993 is hereby amended by repealing subsection (3), and substituting the following subsection: 15

“(3) In considering an application for confirmation of an alienation to a person who is an overseas person (within the meaning of the Overseas Investment Act 1973) of any land that, if it were General land, could be acquired by that person only in accordance with that Act or regulations made under that Act, the Maori Land Court— 20

“(a) Shall, as far as possible, act in conformity with the relevant provisions of that Act and those regulations; and 25

“(b) Shall have regard to the several matters that any person is required by that Act or those regulations to consider in relation to applications under that Act or those regulations.” 30

Transitional Provisions

16. Transitional provisions—

New

(1A) The provisions of the principal Act and any regulations made under that Act, as in force immediately before the commencement of this section, shall, notwithstanding the amendments to the principal Act made by this Act or the revocation of those regulations, continue in force in relation to every contract or arrangement 35

New

or act, matter, or thing to which those provisions applied immediately before the commencement of this section.

5 (1) The provisions of Part II
and Part IIA of the Land Settlement Promotion and Land
Acquisition Act 1952, as in force immediately before the
commencement of this section, shall, notwithstanding the
repeal of that Act, continue in force in relation to every
contract or agreement to which those provisions applied
10 immediately before the commencement of this section.

(2) The provisions of section 152 of Te Ture Whenua Maori
Act 1993, as in force immediately before the commencement
of this section, shall continue in force in relation to every
alienation of Maori freehold land made before the
15 commencement of this section.

SCHEDULES

Section 13

FIRST SCHEDULE

SCHEDULE TO PRINCIPAL ACT

Section 2

“SCHEDULE

LAND REQUIRING CONSENT TO ACQUISITION BY OVERSEAS PERSONS

PART I

Land over 5 hectares

Any land that, together with any associated land, exceeds 5 hectares in area.

Islands

Any land that is, or that forms part of, an island (other than the North Island or the South Island or an island specified in **Part II** of this Schedule).

Any land that, together with any associated land, exceeds 0.4 hectares in area and that forms part of an island specified in **Part II** of this Schedule.

Any land that is, or that forms part of, an island of the Chatham Islands.

Foreshore, lakes, and reserves

Any land that, together with any associated land, exceeds 0.4 hectares in area and that includes or adjoins:

- (a) The foreshore; or
- (b) Any lake the bed of which exceeds 8 hectares in area; or

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- (c) Any land that exceeds 0.4 hectares in area and is provided as a reserve, a public park, for recreation purposes, or as private open space, or is proposed for any such purpose, or is subject to a heritage order, under any operative regional plan or proposed or operative district plan under the Resource Management Act 1991.

New

- (c) Any land that exceeds 0.4 hectares in area and—

 - (i) Is held for conservation purposes under the Conservation Act 1987; or
 - (ii) Is provided as a reserve, a public park, for recreation purposes, or as a private open space, or is proposed for any such purpose, or is subject to a heritage order, under any operative regional plan or proposed or operative district plan under the Resource Management Act 1991; or
 - (iii) Is the subject of a notice of requirement for a heritage order by a heritage protection authority under the Resource

FIRST SCHEDULE—*continued*

SCHEDULE TO PRINCIPAL ACT—*continued*

“SCHEDULE—*continued*

LAND REQUIRING CONSENT TO ACQUISITION BY OVERSEAS PERSONS—
continued

PART I—*continued*

New

Management Act 1991 or by the Historic Places Trust under the Historic Places Act 1993; or

(iv) Is an historic place, an historic area, wahi tapu, or a wahi tapu area entered in the register established under the Historic Places Act 1993 or in respect of which an application or proposal for entry in the register has been made under that Act; or

(v) Forms part of an historic place entered in that register or on which is situated any building, object, or chattel that is entered in that register or in respect of which an application or proposal for entry in that register has been made under that Act.

PART II

Land over 0.4 hectares on certain islands

Arapawa Island
Best Island
Great Barrier Island
Great Mercury Island
Jackett Island
Kawau Island
Matakana Island
Mayor Island
Motiti Island
Motuhua Island
Rakino Island
Rangiwaea Island
Slipper Island
Stewart Island
Waiheke Island
Whanganui Island.

FIRST SCHEDULE—*continued*SCHEDULE TO PRINCIPAL ACT—*continued*“SCHEDULE—*continued*”LAND REQUIRING CONSENT TO ACQUISITION BY OVERSEAS PERSONS—
*continued**New*

PART III

Other land

Any land, other than land specified in **Part I** or **Part II**, if the consideration in the transaction in respect of ownership or acquisition of, or control over, the land or any estate or interest in the land exceeds \$10,000,000 or such greater amount as may, from time to time, be prescribed.

Any land, other than land specified in **Part I** or **Part II**, that is, or any estate or interest in which is, owned or controlled directly or indirectly by a company or body corporate if the consideration in respect of the ownership or acquisition of, or control over, securities or rights or interests in securities of the company or body corporate, in so far as it relates to land or any estate or interest in land, exceeds \$10,000,000 or such greater amount as may, from time to time, be prescribed.”

SECOND SCHEDULE

Section 14

PART I

ENACTMENTS REPEALED

- 1955, No. 31—The Land Settlement Promotion and Land Acquisition Amendment Act 1955. (R.S. Vol. 3, p. 180.)
- 1959, No. 33—The Land Settlement Promotion and Land Acquisition Amendment Act 1959. (R.S. Vol. 3, p. 181.)
- 1961, No. 21—The Land Settlement Promotion and Land Acquisition Amendment Act 1961. (R.S. Vol. 3, p. 182.)
- 1963, No. 94—The Land Settlement Promotion and Land Acquisition Amendment Act 1963. (R.S. Vol. 3, p. 183.)
- 1968, No. 152—The Land Settlement Promotion and Land Acquisition Amendment Act 1968. (R.S. Vol. 3, p. 183.)
- 1969, No. 87—The Land Settlement Promotion and Land Acquisition Amendment Act 1969. (R.S. Vol. 3, p. 185.)
- 1972, No. 75—The Land Settlement Promotion and Land Acquisition Amendment Act 1972. (R.S. Vol. 3, p. 186.)
- 1987, No. 65—The Conservation Act 1987: So much of the Second Schedule as relates to the Land Settlement Promotion and Land Acquisition Act 1952.
- 1989, No. 130—The Tourist Hotel Corporation of New Zealand Act 1989: Section 3.
- 1989, No. 143—The Regulations (Disallowance) Act 1989: So much of the Schedule as relates to the Land Settlement Promotion and Land Acquisition Act 1952.
- 1991, No. 69—The Resource Management Act 1991: So much of the Eighth Schedule as relates to the Land Settlement Promotion and Land Acquisition Act 1952.

PART II

REGULATIONS REVOKED

Title	Statutory Regulations Serial Number
The Land Settlement Promotion and Land Acquisition Regulations 1968	1968/246
The Land Settlement Promotion and Land Acquisition Regulations 1968, Amendment No. 1	1969/219
The Land Settlement Promotion and Land Acquisition Regulations 1968, Amendment No. 2	1972/71
The Land Settlement Promotion and Land Acquisition Regulations 1968, Amendment No. 3	1973/31
The Land Settlement Promotion and Land Acquisition Regulations 1968, Amendment No. 4	1975/14
The Land Settlement Promotion and Land Acquisition Regulations 1968, Amendment No. 5	1994/55