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The NZ Super Fund has Israeli investments worth \$35 million – could it divest?

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The decision by Israel’s parliament to designate the United Nations’ Palestinian relief agency UNRWA a “terrorist organisation” has been condemned by many governments, with [claims it will create a](#) “catastrophe in what is already an unmitigated disaster”.

This came three months after the International Court of Justice’s landmark [advisory opinion](#) in July declaring Israel’s presence in the Occupied Palestinian Territory unlawful. All states now have a legal obligation to ensure they are not assisting Israel to continue its unlawful occupation.

But with the reelection of Donald Trump as US president, how the international community will respond to breaches of international law becomes even less clear.

New Zealand has criticised the United Nations Security Council for its failure to resolve the crisis, and has backed calls in the UN General Assembly for humanitarian ceasefires in Gaza.

But some, including the Green Party, have called for the government to [take tougher measures](#) against Israel, including divestment and sanctions. If the government were to consider such a path, then, what would its options be?

The Russian invasion of Ukraine provides the most obvious precedent. The [Russia Sanctions Act](#) (the [first law of its kind in New Zealand](#)) was passed in 2022, covering travel, trade and assets associated with the Russian and Belarusian governments. Stronger action against Israel would likely require something similar.

Divestment, on the other hand, could happen without any law changes. The [guardians of the Superannuation Fund](#), for example, could review their portfolio and decide to divest, and technically would not need to consult the finance minister.

NZ's Israel investments

New Zealand has investments in Israeli companies and government bonds. The latest [portfolio disclosure](#) from the Super Fund (which is a crown entity) shows investments in five Israeli software and IT companies totalling NZ\$29,510,559.

The Super Fund also has \$5,996,326 invested in “Israeli sovereign bonds”, according to an Official Information Act response I received from Finance Minister Nicola Willis.

These investments arguably breach section 61(d) of the [Superannuation and Retirement Income Act](#) which requires “ethical investment”. They may also go against the Super Fund’s [sustainable investment framework](#), which guides investments and “[protects the reputation of the Fund](#)”.

The framework states the fund *may* take account of international law and “the severity of the breach of standards” when making investment decisions. It also says the fund will exclude investment in the government bonds of any state where:

- there is widespread condemnation or sanctions by the international community
- and New Zealand has imposed meaningful diplomatic, economic or military sanctions aimed at that government.

The first requirement of “widespread condemnation” appears to have been met: 124 states (including NZ) [voted in the UN General Assembly](#) in September to call for an end to Israel’s unlawful occupation of East Jerusalem and the rest of the Occupied Palestinian Territory.

The second requirement is more difficult to satisfy because New Zealand has not yet “imposed meaningful diplomatic, economic or military sanctions” on Israel.



Foreign Minister Winston Peters addressing the UN General Assembly in September 2024. Getty Images

Ministerial direction

As Willis has made clear, the Super Fund is an autonomous crown entity with its own responsible investment policy.

However, if the fund is perceived not to be investing ethically or in accordance with the sustainable investment framework, the minister could take action.

Under section 64 of the act, the minister could issue a non-binding ministerial direction to the fund's guardians directing them to consider divesting from sovereign bonds to avoid "prejudice to New Zealand's reputation as a responsible member of the world community".

The minister could also send an "enduring letter of expectation" setting out what responsible and ethical investment might look like. This has happened before, most recently in 2021 when the Labour government required Crown Financial Institutions to seek "zero carbon investment portfolios" by 2050.

The fund's guardians might also strengthen the fund's sustainable investment framework by making its language more emphatic. For example, by stating the fund "shall" – rather than "may" – take account of international law and "the severity of the breach of standards" by another state.

Calls for sanctions

Meanwhile, the humanitarian situation in Gaza and now Lebanon has become even more dire, with Israel accused of further violations of international law, including using civilians as human shields and targeting UN peacekeepers in Lebanon.

Internationally, calls for economic sanctions and divestment have been increasing, including from some Israeli citizens, as well as from the leaders of Spain and Ireland, and the European Union's top foreign affairs and security diplomat.

New Zealand can impose sanctions, if they have been imposed by the UN Security Council, through regulations permitted by the [United Nations Act 1946](#). But this is highly unlikely in the case of Israel, given the US power of veto.

Without UN sanctions, New Zealand would require a specific law similar to the Russia Sanctions Act. Or it could use the current crisis to create an “autonomous sanctions” regime that would allow it to impose sanctions unilaterally.

This was recommended by an [independent advisory group](#) in May 2023, after an autonomous sanctions bill was proposed but [defeated in 2021](#). This puts New Zealand out of step with its [Five Eyes](#) intelligence network allies, which all have autonomous sanctions legislation.

In the absence of a meaningful ceasefire, divestment would be the possible next resort should the government choose to take a tougher line.

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