

# Standards for Advertising Farm Land

## Contents

1. Introduction
2. Legislation
3. About farm land
4. Vendor's obligation
5. Exemptions
6. Evidence required
7. Further information
8. Disclaimer

There are no recent updates to this resource.

## Introduction

Farm land must be offered for acquisition on the open market before consent can be granted to an overseas investment in sensitive land.

In most situations standard market advertising will comply with and meet the overall requirements.

The OIO will require evidence, such as copies of advertisements, brochures or booklets. If the advertisement does not meet the requirements then the property may need to be re-advertised.

## Legislation

Section 16(1)(f) of the Overseas Investment Act 2005 sets out the farm land advertising criterion and must be met if the sensitive land is farm land. "Farm land" is defined in the interpretation section of the Act – section 6 (1).

Regulation 5 of the Overseas Investment Regulations 2005 establishes the procedure and minimum standards for advertising farm land. Regulation 5 states that, for the purposes of section 16(1)(f) of the Act farm land or farm land securities must be:

- offered for acquisition on the open market, to persons who are not overseas persons, in accordance with regulations 6 to 8
- available on the open market for the minimum period required by regulation 9, and
- advertised within the period required by regulation 10.

Part 1 (regulations 4 to 11) and Schedule 1 of the Regulations establish the procedure and minimum standards for advertising farm land on the open market.

The relevant Ministers have the power under section 20(a) of the Act to grant exemptions from the farm land advertising criterion in section 16(1)(f).

## **About farm land**

Farm land is land that is used, exclusively or principally, for agricultural, horticultural or pastoral purposes, or for the keeping of bees, poultry or livestock.

Land that is used for forestry purposes is not farm land.

One parcel of land may contain both land that is farm land, and land that is not farm land. In these cases, only the farm land portion of the land must be advertised.

## **Vendor's obligation**

The vendor must advertise that the farm land or farm land securities are available for acquisition. The advertisement must meet the content, form and time requirements in regulations 7-10.

While there is no obligation to use more than one form of advertising, there may be circumstances when an applicant cannot establish that the land was genuinely available for acquisition if only one form of advertising is used.

The advertising requirements do not prevent the owner from selling farm land to an overseas person. However, the advertising procedure must be completed before a farm land owner can sell his or her property to an overseas person.

The Regulations also do not require the owner to advertise the property before selling to a person who is not an overseas person. The owner may accept an offer for the farm land or farm land securities from a person who is not an overseas person at any time. Further, nothing in the Regulations requires the vendor to accept any particular offer (New Zealander or otherwise) but they must have an ability to accept offers from New Zealanders for a 20 working day period.

## **OIO assessment**

The OIO makes an overall assessment by looking at whether a hypothetical person looking to purchase property in the district would have reasonable notice that the property was for sale.

The OIO assesses the prominence, content and placement of an advertisement. Assessment also involves the weighing up of all the factors that constitute giving reasonable notice, looking at the particular circumstances of the property and sale, and observing advertisements for similar properties.

## Exemptions

The relevant Ministers may exempt an investment from the farm land advertising criterion. The Ministers have delegated this power to the OIO. Exemptions tend only to be granted in exceptional circumstances (for example, boundary adjustments between the existing parties, or where the land is locked land).

Please note that an application for exemption from farm land advertising would usually be included in an application for consent to acquire the farm land. This is because the overseas person acquiring the farm land must provide evidence that section 16(1)(f) has been met. If the overseas person does not meet, or intend to meet, the criterion in section 16(1) (f), an exemption from farmland advertising must be applied for under section 20(a) of the Act.

Contact the OIO for further information.

### **Ministers' notice of exemptions (August 2005)**

In August 2005, the relevant Ministers issued a notice to exempt every person from the farm land offer criterion for certain transactions, for example:

- farm land securities quoted on a market
- the acquisition of farm land or farm land securities by an overseas person from a family member.

The full "Notice of exemptions from farm land offer criteria pursuant to section 20 of the Overseas Investment Act 2005" is published on the OIO website and in the New Zealand Gazette, no. 123, 11 August 2005, pages 3018 – 3019.

## Evidence required

The OIO requires general information about the marketing of the property, including names of real estate agencies acting for the vendor.

The OIO also requires evidence of advertising, such as:

- copies of newspaper advertisements showing dates
- copies of website pages
- copy of an advertising booklet.

In some cases a vendor may advertise farm land to comply with the Regulations after having already entered into a sale and purchase agreement for a property. To ensure that the property has been genuinely available on the open market, the OIO will need to see a formal written variation to the agreement. The vendor must be able to terminate the agreement and accept an alternative offer on equal or more favourable terms from a purchaser who is not an overseas person.

See the OIO resource "How to Apply for Consent" for more information.

## Further information

Visit the OIO website at [www.linz.govt.nz/oio](http://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](http://www.legislation.govt.nz).

If you require further information, please contact the OIO.

Overseas Investment Office  
Land Information New Zealand  
160 Lambton Quay  
PO Box 5501  
Wellington 6145  
New Zealand

Phone +64 4 462 4490  
Fax +64 4 460 0111  
Email [oio@linz.govt.nz](mailto:oio@linz.govt.nz)  
[www.linz.govt.nz/oio](http://www.linz.govt.nz/oio)

## **Disclaimer**

This resource provides general information only. The OIO and LINZ do not assume any responsibility for giving legal or other professional advice and disclaim any liability arising from the use of the information. If you require legal or other expert advice you should seek assistance from a professional adviser.