

Decision Date

28 May 2019

Duration of the Exemption

This Exemption comes into force on 28 May 2019 and expires on 28 May 2022.

Interpretation

(1) In this notice, unless the context otherwise requires—

Act means the Overseas Investment Act 2005.

Assets means:

- (a) any interest in sensitive land described in s12(a) of the Act; and
- (b) any rights or interests in securities of a person (A) if A owns or controls (directly or indirectly) an interest in land described in s12(a) of the Act.

Beneficiary means a beneficiary of the will or estate of the deceased.

The **Deceased** means [REDACTED].

Exemption means the exemption in paragraph 3

Exemption Holder means [REDACTED].

Regulations means the Overseas Investment Regulations 2005.

Transmission has the same meaning as in s 5 of the Land Transfer Act 2017.

(2) Any term or expression that is defined in the Act or the Regulations and used, but not defined, in this Exemption has the same meaning as in the Act or the Regulations (as the case may be).

Exemption from the requirement for consent

(3) The Exemption Holder is exempt from the requirement for consent for the purposes of section 10(1)(a) of the Act for the transmission of Assets to the Exemption Holder in their capacity as the trustee, executor, or administrator of the will or of the estate of the Deceased.

Conditions of the Exemption

- (4) The Exemption Holder must cease to hold any interest in the Assets in their capacity as trustee, executor, or administrator of the will or estate of the Deceased within three years of the date of this exemption.
- (5) Condition 4 does not prevent the Exemption Holder transferring the Assets to themselves in reliance on the exemption in regulation 40(1)(b) of the Regulations.
- (6) The Exemption Holder must provide the Overseas Investment Office with reports which includes the following documents and information:
 - (a) The date on which any transmission of Assets to the Exemption Holder takes place;

- (b) The details of the Assets concerned, including the record of title identifier for any sensitive land, and the details of any securities in a person that owns or controls sensitive land;
 - (c) The date on which the Assets concerned are disposed of (either by sale, or by transfer to a Beneficiary); and
 - (d) Whether those Assets are sold to a third party, transferred to a Beneficiary in reliance on the exemption in r 40(1)(b) of the Regulations, or transferred to a Beneficiary who did not require consent
- (7) The reports required by paragraph 6 above must be provided annually on or before each anniversary of the date of this exemption until such time as the Exemption Holder no longer holds any Assets. A final report must be provided within three months of the Exemption Holder no longer holding the Assets.
- (8) The reports must be in the form specified by the Overseas Investment Office.

Amendment or revocation of the Exemption

The Exemption and conditions of the Exemption may at any time be amended or revoked by the Overseas Investment Office.

Sanctions

The Act provides for civil and criminal sanctions for breaching the Act, failing to comply with conditions of exemption and failing to provide information required by the Overseas Investment Office. The Overseas Investment Office has an obligation to investigate and act upon alleged and suspected breaches of the Act.

Reasons for Exemption

This exemption exempts the transmission of sensitive land and securities (such as shares) of a company or other entity that owns or controls sensitive land to the trustee, executor or administrator of an estate.

The Exemption falls within the purpose in section 61B(a) and (b) because compliance with the Act would be impractical, inefficient, and unduly burdensome and the exemption is minor and technical.

Requiring consent under the Act would unduly delay the prompt administration of the estate and the cost of obtaining consent risks unnecessarily drawing on the estate's resources.

The Exemption Holder's ownership of the property is minor and technical only and the Exemption Holder will not own the property for their own benefit (except to the extent that they may also be a beneficiary). The Exemption Holder owes fiduciary duties to the beneficiaries of the estate, their ownership is for a short period only, and arises by operation of law.