

Decision Date

8 April 2020

Duration of the Exemption

- (1) This Exemption comes into force on 8 April 2020, and may be used until 9 April 2021 (the “**Use-by Date**”).

Interpretation

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

Act means the Overseas Investment Act 2005.

Deceased means Mr. [REDACTED]

Exemption means the exemption in paragraph 4.

Exemption Holder means Ms. [REDACTED]

OIO means the Overseas Investment Office.

Regulations means the Overseas Investment Regulations 2005.

Residential Property means the property at [REDACTED] including:

(a) approximately [REDACTED] square metres described as Lot [REDACTED] and

(b) a [REDACTED] share of approximately [REDACTED] square metres described as Lot [REDACTED]

being the interests in land set out in Record of Title [REDACTED]

- (3) 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 provisions of the Act

- (4) The Exemption Holder is exempt from the requirement for consent under the Act for the transaction(s) to acquire a 1/10th share/interest in the Residential Property from the executor of the Deceased’s estate.

Conditions of the Exemption

- (5) The Exemption Holder must notify the OIO in writing as soon as practicable, and no later than the Use-by Date, whether the transaction(s) in paragraph 4 took place. If the transaction(s) did take place, the notice must include:
- (a) the date upon which settlement of the relevant transaction occurred;
 - (b) final consideration paid (plus GST, if any);
 - (c) the structure by which the acquisition was made, and who acquired the property;
 - (d) where applicable, copies of transfer documents and settlement statements; and
 - (e) any other information that would aid the OIO in its function to monitor the conditions of the Exemption.

- (6) If requested in writing by the OIO, the Exemption Holder must provide a written report within 20 working days (or such other timeframe as specified) on any matter relating to its compliance with:
 - (a) the representations and plans made or submitted in support of the application for the Exemption; or
 - (b) the conditions of the Exemption.

Amendment or revocation of the Exemption

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

Sanctions

- (8) 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

- (9) This exemption is granted under section 61D of the Act by the delegated decision-maker. It provides an exemption from the requirement to obtain consent for the mother of the Deceased to acquire a 1/10th share/interest in the Residential Property from the executor of the Deceased's estate.
- (10) The exemption falls within the purpose in section 61B(b), as the exemption is minor and/or technical. The decision-maker has determined that it is appropriate and desirable to grant an exemption in the collective circumstances particular to this case, and that the exemption is not broader than is reasonably necessary to address those circumstances.
- (11) The Residential Property is already primarily in ownership of the Applicant (which holds a 9/10th share), the transaction value is relatively small, and the minor increase in ownership interest will have very little impact on the effective ownership or control of the Residential Property. It is also unlikely to have any impact on the asset itself.
- (12) The event precipitating the application was outside the control of the Applicant, the Applicant is the only natural buyer for the 1/10th interest in the Residential Property, and there does not appear to be a reasonable alternative for the executor and beneficiaries to release the capital from the 1/10th interest that was held by the Deceased. We note that the proposed transaction will result in provision of financial support for the Deceased's surviving partner and children, which are New Zealanders.