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## Exemption from the farm land offer criterion

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Read this decision carefully - you must comply with all the conditions. If you do not, we may revoke your exemption.

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### Decision

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#### Case:

202300899

#### Decision Date

20 February 2024

#### Duration of the Exemption

This Exemption expires on 28 February 2025

#### Interpretation

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

**Act** means the Overseas Investment Act 2005.

**Exemption** means the exemption in paragraph 2.

**Exemption Holder** means the current shareholders of *[withheld under section 9(2)(b)(ii) of the Official Information Act 1982]*

**Land** means the sensitive land as described in the table in Appendix 1.

**LINZ** means Toitū Te Whenua Land Information New Zealand.

**Qualifying Transaction** means the sale by the Exemption Holder of the shares in the Target which has leasehold interests in the Land.

**Regulations** means the Overseas Investment Regulations 2005.

**Target** means *[withheld under section 9(2)(b)(ii) of the Official Information Act 1982]*

- (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 farm land offer criterion under the Act

- (3) The requirement in section 16(1)(f) of the Act does not apply in respect of an application for consent under the Act for a Qualifying Transaction decided on or before 28 February 2025.

#### Conditions of the Exemption

- (4) The Exemption Holder must offer the Target's shares for acquisition for at least 30 working days before the Qualifying Transaction is entered into.
- (5) The Target's shares must be offered for acquisition within 12 months of the Qualifying Transaction being entered into.
- (6) If requested in writing by LINZ, 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

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

## 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 LINZ. LINZ has an obligation to investigate and act upon alleged and suspected breaches of the Act.

## Reasons for Exemption

The purpose of the requirement to advertise farm land is to give New Zealanders an opportunity to acquire farm land in the open market.

An exemption from this requirement may be granted if the decision maker considers that the overseas investment need not meet this requirement by reason of the circumstances relating to the particular overseas investment or section 12 interest or the nature of the land to which the section 12 interest relates.

An exemption may only be granted if there are circumstances that mean that it is necessary, appropriate, or desirable to provide an exemption, and the extent of the exemption is not broader than is reasonably necessary to address those circumstances.

The Exemption Holder intends to sell shares in a *[withheld under section 9(2)(b)(ii) of the Official Information Act 1982]* business that which indirectly owns leasehold interests in land that is considered sensitive under the Act.

In this case, an exemption to the form of advertising the Land is appropriate and desirable as:

- We accept that due to the substantial size of the Applicant's business, there would be a limited pool of potential purchasers with the means to acquire the business. We are satisfied that the most likely purchasers have been identified and will be approached in due course.
- Business transactions of this size are targeted to potential purchasers, rather than publicly transacted and therefore public advertisement in the newspaper, real estate publications or online media is unlikely to be an effective way to obtain such buyers.
- The Exemption is consistent with the principle that New Zealanders are aware that an interest in farm land is available for acquisition. New Zealander purchasers who have been identified as having the funds and capability to potentially acquire an asset of this nature are likely to be notified of the sale of the business.

LINZ considers the extent of the Exemption is not broader than is reasonably necessary as it is limited to the form of advertising only.

The business will be required to be advertised to the identified potential purchasers for at least 30 working days, in the 12 months before the sale of the shares.

## APPENDIX 1 – The Land

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Address	Legal Description	Hectares	Current use
Withheld under s 9(2)(b)(ii) of the Official Information Act 1982			

Withheld under section 9(2)(b)(ii) of the Official Information Act 1982

