
Farm land offer exemption for case number 202400079

Read this exemption carefully - you must comply with all the conditions.

Exemption

Decision date: 19 March 2024

The following people have been given the following exemption:

Case	202400079
Exemption	In respect of any application for consent under the Act to acquire the Land within the Timeframe, the Exemption holder is exempt from the farm land offer criterion in section 16(1)(f) of the Overseas Investment Act 2005 subject to the conditions set out below.
Exemption holder	<ul style="list-style-type: none"> • First Renewables Power Limited (company number 9001390) • Harmony Energy Limited (UK) • Harmony Energy NZ Limited (company number 7540498) <p>We will also refer to each Exemption holder and the Exemption holders together as you.</p>
Land	<ul style="list-style-type: none"> • Approximately 262.4387 hectares located at 241 Mikkelsen Road and 30 Alexander Road in Te Aroha (RTs SA802/157; SA797/217; SA723/228; 192929; and SA41D/367); and • Approximately 121.1069 hectares located at McKinley, Alexandra and King Roads in Te Aroha (RTs 989919; SA16A/530; 989920; and 989921).
LINZ	Toitū te Whenua Land Information New Zealand
Timeframe	This exemption expires on 19 March 2029

Conditions

Your Exemption is subject to the conditions set out below. You must comply with them. The Overseas Investment Act 2005 (**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.

1. Interpretation

In this notice, unless the context otherwise requires:

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

Act means the Overseas Investment Act 2005

Exemption means the exemption in paragraph 2

Less than freehold interest means an estate or interest in land other than freehold

Qualifying Interest means a less than freehold interest in the Land being acquired exclusively or nearly exclusively for operating a solar farm for electricity generation

Qualifying Transaction means the acquisition of a Qualifying Interest by an Exemption Holder

Regulations means the Overseas Investment Regulations 2005

(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).

2. Exemption from farm land offer criterion under the Act

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 19 March 2029.

3. 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.

Reporting Conditions

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 exemption

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

Reasons for exemption

The purpose of the requirement to advertise farm land is to give New Zealanders an opportunity to acquire farm land on 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 Applicants intend to develop solar farms on the Land and have sought an exemption from the requirement for farm land to be advertised.

In this case, an exemption is appropriate and desirable as:

- there are circumstances that make advertising less appropriate for solar farm developments than for other developments;
- there is often a need to proactively approach existing property owners due to the very specific land requirements needed for a solar farm (the existing property owners may have no general desire to sell, lease or grant any interest to their land to a third party);
- investors are likely to face uncertainty and risk which may discourage investments of this type if they are forced to undertake extensive feasibility studies without first obtaining a right to acquire the land needed for their proposed solar farm (there would be nothing preventing the existing property owners from selling or leasing their land to a third party, including the investors' competitors);
- the Exemption is consistent with the principle that overseas investment should benefit New Zealand, noting the high importance the Government places on renewable energy;
- the Land will be used both for solar purposes and for farming;
- solar farming is a temporary use of the Land, and the Land can revert to an exclusively farming use should the Land no longer be needed for a solar farm; and
- the interests are less than freehold interests, therefore only a temporary divestment of the farm land. New Zealanders will not permanently lose the opportunity to acquire the Land as it will revert to New Zealand ownership at the expiry of the less than freehold interest.