

1. Decision Date

13 June 2023

2. Duration of the Exemption

This Exemption comes into force on the decision date and expires at the close of 31 December 2023.

3. Interpretation

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

Act means the Overseas Investment Act 2005.

Exemption means the exemption in paragraph 4.

Exemption Holder means [*withheld under s 9(2)(a) of the Official Information Act 1982*].

LINZ means Toitū Te Whenua Land Information New Zealand

Regulations means the Overseas Investment Regulations 2005

Transaction means the purchase of [*withheld under s 9(2)(a) of the Official Information Act 1982*] Wellington (record of title [*withheld under s 9(2)(a) of the Official Information Act 1982*]) (**Land**) by the Exemption Holder.

- (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).

4. Exemption from the requirement for consent provisions of the Act

- (1) The Transaction does not require consent for the purposes of section 10(1)(a) of the Act.

5. Conditions of the Exemption

- (1) The Exemption Holder must notify LINZ in writing as soon as practicable, and no later than twelve months from the date of the Exemption, whether the transaction in paragraph 4(1) took place. If the transaction did take place, the notice must include:

- (a) the date upon which settlement of the 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 LINZ in its function to monitor the conditions of the Exemption.

- (2) The Exemption Holder must cease to be an overseas person by 31 December 2025, by either:

- (a) becoming a New Zealand citizen, or
- (b) becoming ordinarily resident in New Zealand as defined in s 6(2)(a) of the Act.

- (3) The Exemption Holder must dispose of their interest in property by 31 December 2026 if they do not comply with paragraph 5(2).
- (4) The Exemption Holder must report in writing to LINZ by 31 January 2026 providing evidence that they have ceased to be an overseas person.
- (5) 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.

6. Amendment or revocation of the Exemption

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

7. 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.

8. Reasons for Exemption

The Exemption Holder wishes to buy a new home in New Zealand to live in. The Exemption Holder has lived in New Zealand since 2007, their immediate family lives in New Zealand (and are New Zealand citizens), and the Exemption Holder has other property in New Zealand.

However, due to work commitments overseas (primarily for charitable and international aid organisations) the Exemption Holder is not currently “ordinarily resident in New Zealand” and so needs consent under the Overseas Investment Act 2005 to buy the home. They are unable to obtain consent under the “commitment to reside in New Zealand” pathway (the usual pathway for transactions like this) as their overseas commitments mean that they do not meet the requirements of the consent pathway. The only way consent could be granted is if they abandoned their role overseas and immediately returned to New Zealand.

If the Exemption Holder had been granted consent *before* their most recent offshore posting, then the “waiver” regime would have allowed them to retain their home despite not living in it.

Taking all of this into account, LINZ considers that there are circumstances that mean that it is appropriate and desirable to provide an exemption. The exemption provides flexibility where compliance with the Act is impractical, inefficient, unduly costly, or unduly burdensome, taking into account the sensitivity of the Land and the nature of the transaction.

The Exemption is not broader than is reasonably necessary because it only allows the Exemption Holder to buy the Land and requires them to promptly cease to be an overseas person.