
Exemption from the farm land offer criterion

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

Decision

1. Case: 202200572

2. Decision Date

13 February 2023

3. Duration of the Exemption

This Exemption comes into force on 13 February 2023 and expires on 13 February 2024.

4. Interpretation

In this notice, unless the context otherwise requires—

Act means the Overseas Investment Act 2005.

Exemption means the exemption in paragraph 5.

Exemption Holder means Joval Wine Group (NZ) Limited (NZ company number 1304813)

Land means approximately 19 hectares of land at Bendigo Loop Road, Central Otago, held in record of title 5179 (Lot 3 DP 301165).

LINZ means Toitū Te Whenua Land Information New Zealand.

Regulations means the Overseas Investment Regulations 2005.

Transaction means the sale of the freehold interest in the Land owned by the Vendors to the Exemption Holder pursuant to an agreement entered into on 11 July 2022.

Vendors means Aurora Vineyard Limited (NZ company number 977629)

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).

5. Exemption from farm land advertising requirements

The requirement in section 16(1)(f) of the Act does not apply to the Land in respect of the Transaction.

6. Conditions of the Exemption

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.

7. Amendment or revocation of the Exemption

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

8. 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.

9. Reasons for Exemption

The Exemption Holder intends to further develop an existing vineyard on the Land and has sought a partial exemption from the requirement for farm land to be fully advertised in accordance with the Regulations.

The purpose of the farm land advertising criterion is to give New Zealand investors an opportunity to acquire farm land.

Although the advertising for the Land met the requirements for internet advertising outlined in regulation 8(b) of the Regulations, it failed to include one other form of medium (newspaper or real estate publication) as required in regulation 8. Therefore, the farmland advertising criteria under s16(1)(f) of the Act was not fully met.

However, 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.

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

- despite not meeting the specific newspaper advertising criteria under s16(1)(f) of the Act, the Vendor advertised the sale of the Land on the internet and social media for 95 working days prior to the Agreement of Sale and Purchase being entered into with the Applicant. This is considerably longer than the minimum of 30 working days set out in the Regulations;
- the advertising campaign was conducted entirely online in part because of advertising changes introduced by the relevant real estate advertising agent as a result of the Covid 19 pandemic circumstances and its impact on New Zealand business at the time;
- this advertising resulted in significant interest including 21 discussions with potential buyers which resulted in 5 viewings of the Land;
- all of the other farm land advertising requirements set out in the Regulations were complied with.

