
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.

Notice of Decision Case: 202300174

1. Decision Date

28 June 2023

2. Duration of the Exemption

The exemption in paragraph 4 applies to transactions entered into on or before 28 June 2024.

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 Holcim (New Zealand) Limited

Land means approximately 179.5475 hectares of land contained in Records of Title 664164, NA40B/863, SA15B/1072, SA35C/960, SA35C/962, SA52B/47, SA52B/48, SA91/64, and SA802/245.

Qualifying Interest means a licence interest in the Land being acquired exclusively or nearly exclusively for operating a sand quarry

Qualifying Transaction means the acquisition of a Qualifying Interest by the 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).

4. 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.

5. 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.

6. Reasons for Exemption

The purpose of the requirement to advertise farm land is to give New Zealand investors an opportunity to try to acquire farm land.

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:

- the Land is adjacent to an existing sand quarrying business which the Applicant proposes to acquire, subject to Overseas Investment Act consent
- the Landowners do not have an intention of licensing the Land for purposes other than for sand quarrying
- if required to advertise, the interests that will be advertised are not interests in land that can be used for farming purposes, but rather interests in land to be utilised for sand quarrying activities
- the interest is a licence interest, 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 licence.

The relevant Ministers consider the extent of the Exemption is not broader than is reasonably necessary as it is limited to specific properties and acquisitions for the purpose of sand quarrying; that it only applies for a limited period of time, and the interest is a licence interest only.