

Decision Date

23 February 2021

Duration of the Exemption

- (1) This Exemption comes into force on the Decision Date and may be used until 23 February 2022 (the “Use-by Date”).

Interpretation

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

Act means the Overseas Investment Act 2005.

Deceased means [s 9(2)(a)]

Exemption means the exemption in paragraph 4.

Exemption Holder means the trustees of the estate of [s 9(2)(a)]

OIO means the Overseas Investment Office.

Regulations means the Overseas Investment Regulations 2005.

Property means [s 9(2)(a)], being a property that is residential (but not otherwise sensitive) land.

Surviving Partner means [s 9(2)(a)] a New Zealand citizen.

- (3) 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 the requirement for consent provisions of the Act

- (4) The Exemption Holder is exempt from the requirement for consent under the Act to acquire an 11/25th interest in the Property as tenants in common in unequal shares.

Conditions of the Exemption

- (5) The exemption in paragraph 4 only applies if the remaining 14/25th share of the Property is acquired by the Surviving Partner at the same time.
- (6) The Exemption Holder must dispose of its 11/25th interest in the Property within 12 months if the Surviving Partner ceases to own the remaining 14/25th interest in the property.
- (7) The Exemption Holder must notify the OIO in writing as soon as practicable, and no later than the Use-by Date, whether the transaction(s) in paragraph 4 took place. If the transaction(s) did take place, the notice must include:
- a) details of the property acquired by the Exemption Holder including:
 - i. the physical address of the property;
 - ii. the record of title reference;
 - iii. the legal description.
 - b) the date upon which settlement of the relevant transaction occurred;
 - c) final consideration paid (plus GST, if any);
 - d) the structure by which the acquisition was made, and who acquired the property;
 - e) where applicable, copies of transfer documents and settlement statements; and

- f) any other information that would aid the OIO in its function to monitor the conditions of the Exemption.
- (8) If requested in writing by the OIO, 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 the conditions of the Exemption.

Amendment or revocation of the Exemption

- (9) The Exemption and conditions of the Exemption may at any time be amended or revoked by the OIO.

Sanctions

- (10) 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 the OIO. The OIO has an obligation to investigate and act upon alleged and suspected breaches of the Act.

Reasons for Exemption

- (11) This exemption is granted under section 61D of the Act by the delegated decision-maker.
- (12) It provides an exemption from the requirement to obtain consent by the trustees of an estate to acquire a 11/25th interest in a residential property.
- (13) The property is being acquired to provide a home for the benefit of the Surviving Partner, who is a New Zealand citizen that resides in New Zealand. The remaining 14/25th share of the property will be owned by that New Zealander, who will live in it for so long as they wish.
- (14) The exemption is consistent with the purposes in section 61B(a), and (c)(viii) of the Act. We note the following circumstances of this case:
- Compliance with the Act in this case is unduly burdensome, taking into account the sensitivity of the sensitive assets and the nature of the proposed overseas investment transaction.
 - The relevant sensitive asset is for the trustees of the Deceased's estate to hold only a partial interest in residential property. The transaction is intended to provide a home for a New Zealander who is the Surviving Partner of the Deceased. Without the exemption, the New Zealander and the trustees of the estate are unlikely to have any clear pathway for consent, denying the Surviving Partner (a New Zealand citizen) the ability to acquire a home to live in.
 - The person that will be fundamentally controlling the residential property will be a New Zealander, being the Surviving Partner that will be residing in the home.
- (15) The decision-maker has determined that it is appropriate and desirable to grant an exemption in the collective circumstances particular to this case, and that the exemption is not broader than is reasonably necessary to address those circumstances.