

Our Ref DOIA 22-009

Your Ref OIA request

18 August 2021

[s 9(2)(a)]

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Dear [s 9(2)(a)]

Response to your official information request

Thank you for your official information request received on 10 July 2021. We discussed the scope of your request over telephone on 19 July 2021, and this was further refined in subsequent email correspondence on 22 July 2021.

Ultimately, we arrived at the following questions that are answered below:

- 1. The number of incidents we have triaged relating to possible breaches on the restrictions of overseas persons purchasing residential property since the one home to live in rules came into force.**

Since 22 Oct 2018, we have opened 66 investigations involving residential land only, or residential and otherwise sensitive land.

This does not include cases where we have investigated overseas persons for breaching their one home to live in consent conditions. All instances where we have made parties dispose of the residential properties for breaching their consent conditions are published on our website [here](#).

- 2. How many of these incidents involved the use of trusts.**

Of the 66 investigations, one case involved the use of trust. This was a technical breach due to a misunderstanding about the application of an exemption rule. Compliance letters were issued to the Trustee Company and its legal advisors. This case was not in the nature of an overseas person intentionally using a trust to skirt the restrictions on buying residential property in the sense discussed in our telephone conversation.

- 3. Record of all instances where we have taken action against an overseas person for acquiring residential property without consent since the restrictions on overseas persons buying residential property came into effect on 22 Oct 2018.**

Of the 66 cases investigated, 4 breaches of the Act were resolved by the overseas person applying for retrospective consent and paying an administrative penalty. Another was resolved by the overseas person providing the office with an enforceable undertaking (a copy is on our website [here](#)). In another instance, we issued a compliance letter to the overseas person who voluntarily disposed of the property.

4. I would like the names of all law firms and ideally lawyers who have been implicated, involved with, fined or disciplined in any way for helping foreign home buyers skirt the ban and purchase residential property.

None of these cases involved the use of trusts to conceal the beneficial ownership of residential property since the restrictions came into effect on 22 October 2018.

However, in a case predating the restrictions introduced on 22 October 2018, we took criminal proceedings against both an overseas person and his lawyer for concealing a breach of the Act. Information on these criminal prosecutions can be found [here](#) and [here](#).

5. Can you tell me in layman terms what 'the commitment to reside' test is? That would suggest to me this request would be limited to properties purchased by foreign buyers who did not intend to live in them. The buyers ban doesn't just affect properties bought as investments but all properties.

Following on from our previous response on 23 July 2021, you asked for an explanation about why: "an Australian or Singaporean citizen or permanent resident." a special category?

The reason Singaporeans are a special category (together with Australians) is because of free trade agreements between New Zealand and these countries.

We often work with information from the public to investigate breaches of the Act, and as discussed previously, we would welcome any information you may have to share. Please do get in touch if you or your contacts have information about overseas persons, and/or their lawyers, you suspect may be using trusts to circumvent the restrictions on overseas persons acquiring residential property.

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

I trust this information addresses your questions, but please contact me if you have any further questions.

Yours sincerely

[s 9(2)(a)]

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Proactive Release