



Farm land advertising and exemptions

**Applies to all applications where the agreement is entered into
on or after 24 November 2021
(irrespective of when the application is received)**

What is farm land advertising?

Farm land advertising is the process of offering farm land, or an interest in farm land (referred to in the Act as a ‘section 12 interest’), for sale on the open market to New Zealanders. This is to ensure that New Zealanders have the chance to buy farm land before it is acquired by an overseas person.

If you intend to sell farm land to an overseas person you need to meet the advertising requirements set out below. In certain limited circumstances it is possible to apply for an exemption from these requirements.

What you need to do to comply

The farm land advertising requirements are summarised below

1. Offer your land for purchase by a New Zealander on the open market

This means you must:

- describe the land, or your interest in farm land
- say that you are selling the farm land, or interest in farm land
- state that you are seeking offers to acquire the farm land, or interest in farm land, and
- provide your contact details.

Please note that while calling for tenders could meet these requirements, advertisements just inviting ‘expressions of interest’ will not.

2. Advertise before entering into an agreement

The advertising must occur before the transaction is entered into with an overseas person.

3. Advertising methods

Two types of advertising are required.

1. **Internet** – you must advertise online for a minimum of 30 days. The advertisement must be of usual prominence on a website that is generally used for advertising acquisition of land.
2. **Paper publication** – you must also advertise in one of the following:
 - a newspaper, in the property section of 1 edition, or
 - a real estate sales publication, in 1 edition in an area local to the relevant land.

4. Advertise the land for a certain amount of time

You must advertise the land for at least **30** working days after first advertised, or for a longer period if specified in the advertisement.

5. Advertise within a certain period

Advertisements must be published within the 12 months preceding the earlier of either:

- the date the application is made, or
- the date the transaction that requires consent is entered into.

What happens if you don't comply?

If farm land has not been advertised correctly, one of the following could occur:

- We may ask for the farm land to be re-advertised before we assess the application.
- The application for consent could be declined on the grounds that it does not meet all the necessary requirements.

Exemptions

There are exceptions to the advertising requirement, and you may be automatically exempt or able to apply for an exemption.

Automatic exemption - Gazette Notice

A 2016 Gazette Notice provides for class exemptions from the advertising requirements.

Gazette Notice

The notice exempts several types of transactions, including when:

- the farm land, or interest in farm land, is being acquired by the overseas person from a family member
- the farm land shares or securities are quoted on a securities market.

If these class exemptions apply you do not need to apply for an exemption.

However, the application for consent to acquire the farm land must include information about the relevant class exemption from advertising that is being relied on.

Apply for an exemption under Section 20

If you are not eligible for a class exemption you may be able to apply for an exemption under section 20 of the Act.

Overseas Investment Act 2005, Section 20

Section 20 allows for decision-makers to exempt an investment from the advertising requirements by reason of the circumstances of the investment, or the nature of the land. To grant an exemption, the decision-maker must consider the circumstances are such that:

- (a) it is necessary, appropriate, or desirable to provide an exemption, and
- (b) the extent of the exemption is not broader than is reasonably necessary.

An application for an exemption from the farm land offer criterion is best made in advance of an application for consent. This is because advertising of farm land is a criterion for consent which cannot be satisfied after an application is submitted if the farm land exemption is declined.

- If granted, the advertising exemption will usually be published and may be subject to conditions.

NOTE: If you plan to seek an advertising exemption, please contact us about it before you apply.

Contact the Overseas Investment Office

Fee

Exemption fees are outlined in the fees schedule.

OIO fees and penalties schedule