
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

Case:

202300899

Decision Date

20 February 2024

Duration of the Exemption

This Exemption expires on 28 February 2025

Interpretation

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

Act means the Overseas Investment Act 2005.

Exemption means the exemption in paragraph 2.

Exemption Holder means the current shareholders of Indus Valley Limited

Land means the sensitive land as described in the table in Appendix 1

LINZ means Toitū Te Whenua Land Information New Zealand.

Qualifying Transaction means the sale by the Exemption Holder of the shares in the Target which has leasehold interests in the Land.

Regulations means the Overseas Investment Regulations 2005.

Target means Indus Valley Limited.

- (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).

Exemption from farm land offer criterion under the Act

- (3) 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 decided on or before 28 February 2025.

Conditions of the Exemption

- (4) The Exemption Holder must offer the Target's shares for acquisition for at least 30 working days before the Qualifying Transaction is entered into.
- (5) The Target's shares must be offered for acquisition within 12 months of the Qualifying Transaction being entered into.
- (6) 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.

Amendment or revocation of the Exemption

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

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.

Reasons for Exemption

The purpose of the requirement to advertise farm land is to give New Zealanders an opportunity to acquire farm land in the open market.

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.

The Exemption Holder intends to sell shares in a food production business that which indirectly owns leasehold interests in land that is considered sensitive under the Act.

In this case, an exemption to the form of advertising the Land is appropriate and desirable as:

- We accept that due to the substantial size of the Applicant's business, there would be a limited pool of potential purchasers with the means to acquire the business. We are satisfied that the most likely purchasers have been identified and will be approached in due course.
- Business transactions of this size are targeted to potential purchasers, rather than publicly transacted and therefore public advertisement in the newspaper, real estate publications or online media is unlikely to be an effective way to obtain such buyers.
- The Exemption is consistent with the principle that New Zealanders are aware that an interest in farm land is available for acquisition. New Zealander purchasers who have been identified as having the funds and capability to potentially acquire an asset of this nature are likely to be notified of the sale of the business.

LINZ considers the extent of the Exemption is not broader than is reasonably necessary as it is limited to the form of advertising only.

The business will be required to be advertised to the identified potential purchasers for at least 30 working days, in the 12 months before the sale of the shares.

APPENDIX 1 – The Land

Address	Legal Description	Hectares	Current use
1403 and 1541 Horse Range Road and 26 Haven Street, Hillgrove, Otago	<ul style="list-style-type: none"> • Section 1 Survey Office Plan 23665 • Lot 1 Deposited Plan 18704 • Part Section 5 Block II Moeraki Survey District Part Section 5 Block II Moeraki Survey District and Lot 2 Deposited Plan 447419 • Section 1-2, Section 1 of 3 and Section 2 of 3 Block II 	213.4774	Poultry laying/rearing
116 Huirimu Road, Te Awamutu	<ul style="list-style-type: none"> • Lot 1 and Lot 5 Deposited Plan 582869 	159.2310	Poultry laying/rearing
64 Old Road, Orini, Waikato	<ul style="list-style-type: none"> • Allotment 450A Parish of Taupiri • Part Lot 1 Deposited Plan 12365 • Part Allotment 172 Parish of Taupiri and Defined on Deposited Plan 19972 • Lot 2 Deposited Plan 485295 and Lot 2, 4 Deposited Plan South Auckland 36459 • Allotment 611 Parish of Taupiri 	106.2276	Poultry laying/rearing
35 and 69 Pilbrow Road, Glenpark, Otago	<ul style="list-style-type: none"> • Lot 2 Deposited Plan 27682 • Lot 3 Deposited Plan 414097 	62.7846	Poultry laying/rearing
57 McKerrow Road, Waianakarua, Otago	<ul style="list-style-type: none"> • Lot 1 Deposited Plan 460006 and Lot 5 Deposited Plan 302082 	49.5982	Poultry laying/rearing
13 Matanaka Drive, Waikouaiti, Otago	<ul style="list-style-type: none"> • Lot 1 Deposited Plan 26570 and Lot 3 Deposited Plan 35795 	34.0989	Poultry laying/rearing; egg grading/processing; distribution and feedmill

91, 107 and 109 Rangiotu Road, Himatangi, Manawatū	<ul style="list-style-type: none"> • Lot 24 and Part Lot 25 Deposited Plan 122 • Lot 22 Deposited Plan 122 • Lot 23 Deposited Plan 122 	14.1638	Poultry laying/rearing; egg grading/processing and distribution
328 Oxford Road, Fernside, Canterbury	<ul style="list-style-type: none"> • Lot 2 Deposited Plan 21977 and Lot 1 Deposited Plan 30529 	7.1603	Poultry laying/rearing and egg grading/processing
973-975 Camerons Line, Felding	<ul style="list-style-type: none"> • Lot 1 Deposited Plan 63913 and Lot 1 Deposited Plan 529445 	4.9636	Poultry laying/rearing and egg grading/processing