

## Purpose of exemptions

The Overseas Investment Act 2005 is in place to ensure that overseas investment into New Zealand is high quality and in New Zealand's interests. The consent process allows Ministers or Toitū Te Whenua to assess the quality of proposed investments and consider any risks they pose.

The Act is highly technical and captures a broad range of transactions to prevent opportunities for avoidance and close any possible loopholes. This means exemptions are needed to manage the risk of unintended consequences and of imposing requirements in cases where compliance would be impractical, inefficient, or unduly burdensome.

## Interpreting this guide

This guide to exemptions should be read together with the Overview of the Overseas Investment Act A3 guide available on the Toitū Te Whenua website, which sets out the pathways for overseas investment into New Zealand and the assessment criteria that apply.

This guide is high level only and does not detail all the rules that apply to each exemption. Please refer to the text of each exemption in the Overseas Investment Act 2005 and Overseas Investment Regulations 2005 for details.

## Purpose of this guide

Consent is required for overseas investments into New Zealand's sensitive lands, significant business assets or fishing quota under section 10 of the Overseas Investment Act 2005.

This guide sets out exemptions that may be available for different types of overseas investment.

### Qualifying for an exemption

Most exemptions apply to all types of overseas investment, others are only available for particular investment pathways.

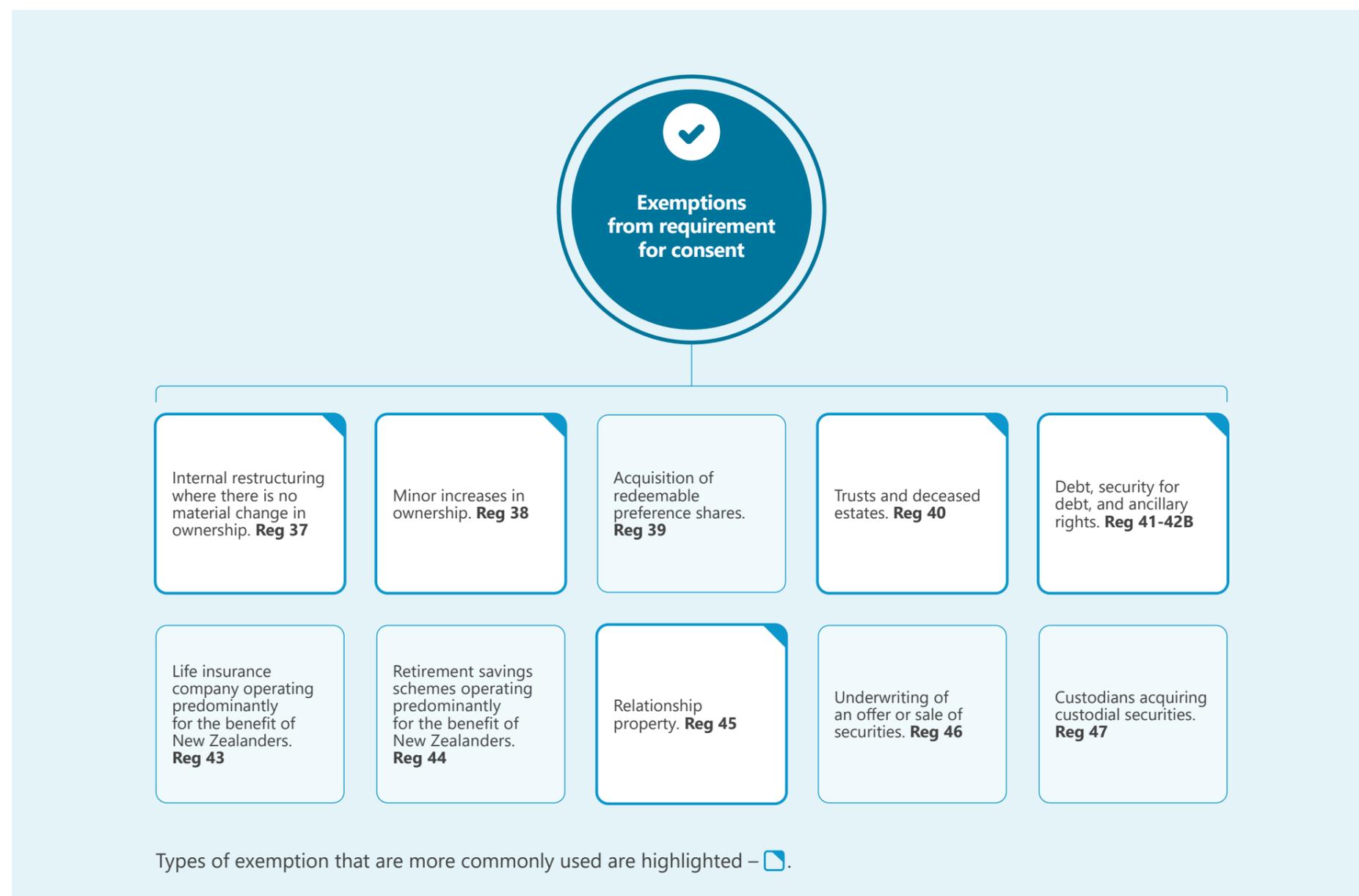
Some exemptions apply automatically where relevant criteria are met. Some automatic exemptions must be notified to Toitū Te Whenua after they have been relied upon. Other exemptions must be applied for and approved in advance.

We recommend investors take legal advice to ensure the circumstances of their investment meet the requirements for an exemption, and to ensure that they understand any other rules that must be followed.

### Further information

More information on the overseas investment regime, how to apply for relevant exemptions and the current Ministerial Directive Letters is on the Toitū Te Whenua website: [linz.govt.nz/overseas-investment](http://linz.govt.nz/overseas-investment).

The Overseas Investment Act 2005 and Overseas Investment Regulations 2005 are available on the New Zealand legislation website: [legislation.govt.nz](http://legislation.govt.nz).



# Exemptions from Overseas Investment Requirements

Available under the Overseas Investment Act 2005 and Overseas Investment Regulations 2005

## Exemptions from requirement for consent – investment in sensitive land

Re-grant of leases (or certain other interests). <b>Reg 51</b>	Buying an existing business that owns certain types of non-urban land. <b>Reg 52</b>	Transfers under the Public Works Act 1981. <b>Reg 53</b>
Replacement of forestry right with new forestry right. <b>Reg 54</b>	Replacement of regulated <i>profit à prendre</i> with a new regulated <i>profit à prendre</i> . <b>Reg 55 –</b>	Covenants on land. <b>Reg 55A</b>
Conversion of freehold interest to a non-freehold interest. <b>Reg 56</b>	Overseas person of Māori descent acquiring an interest in Māori freehold land. <b>Sch 3, cl 1 of the Act</b>	Periodic leases terminable at will. <b>Sch 3, cl 2 of the Act</b>
Acquisition of a forestry right less than 1000 ha. <b>Sch 3, cl 6 of the Act</b>	Conversion of a Crown forestry licence into a forestry right. <b>Sch 3, cl 7 of the Act</b>	Acquisition of regulated <i>profit à prendre</i> of less than 5ha. <b>Sch 3, cl 8 of the Act</b>

## Exemptions from requirement for consent – investment in residential sensitive land

Network utility operators. <b>Reg 57</b>	Residential relationship property. <b>Reg 58</b>	Diplomatic premises on residential land. <b>Reg 59</b>
Residential land acquired by charities. <b>Reg 60</b>	Exemption for certain Australian and Singaporean investors buying residential (but not otherwise sensitive) land. <b>Regs 70-83</b>	Resource consent conditions predating October 2018 requiring the purchase of residential property. <b>Sch 1AA, cl 5 of the Act</b>
A residential tenancy for less than 5 years. <b>Sch 3, cl 3 of the Act</b>	Apartments bought off the plans under an exemption certificate held by the developer. <b>Sch 3, cl 4 and sch 1AA, cl 6 of the Act</b>	Units acquired and leased back to a hotel or other temporary lodging operator. <b>Sch 3, cl 5 of the Act</b>

## Exemptions from definition of Overseas Person

Property owned by custodians investing on behalf of New Zealanders. <b>Reg 62</b>	Retirement schemes where at least 75% of members are New Zealanders. <b>Reg 63</b>	Entities that are overseas persons because of redeemable preference shares. <b>Reg 63A</b>
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### Key

- More commonly used exemptions
- Must notify OIO when exemption used
- Must apply for exemption in advance

## Other exemptions

### Section 61D – discretionary exemptions

Discretionary exemptions to deal with minor, technical or unusual circumstances are available. Exemptions must be applied for.



### Reg 64B – exemption from requirements under call-in regime

Exemptions may also apply to transactions subject to the National Security and Public Order (NSPO) notification regime.

### Section 20 of the Act – farm land advertising exemption

Class exemptions and discretionary exemptions from the farm land advertising requirement are available.

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### Section 20AA of the Act, reg 64D – exemption from definition of non-NZ gov't investor

Exemptions from the definition of 'non-NZ government investor' in the Act are available. Exemptions must be applied for.



### Sch 2, cl 9 of the Act – exemption from definition of key individual

Exemptions from the definition of key individual are available for purchases of a home to live in. Applications will be considered as part of a 'home to live in' consent application.



### Sch 2, cl 20-21 of the Act – exemption from on-sale outcome

Exemptions from the requirement for an 'on-sale' condition are available. Exemptions must be applied for as part of a consent application.



## Conditions may apply

### Regs 65-67 – Conditions

An exemption may be subject to conditions, including the conditions of an earlier consent.