Application form

Discretionary Exemption

Use this template to apply for a discretionary exemption. This accompanies the application submission webform.

It is important that you provide us with accurate and complete information. It is an offence to make a false or misleading statement or material omission in any information or document provided to us.

We may use relevant legislation to share details of this application with other agencies to the extent permitted by law and as required to complete the application process.

Instructions

* + Please do not remove the instruction text from this template.
  + Use the latest version of this template. Download this template from our website before each use.
  + Follow the guidance in each section. Provide all required information.
  + Be concise and use plain English. Use headings and tables (if relevant) and explain industry terminology.
  + This is a living document and must be updated during the assessment process if further information is provided. Updated versions of this document must be recorded in the table below and with [tracked changes](https://support.office.com/en-us/article/Track-changes-in-Word-197ba630-0f5f-4a8e-9a77-3712475e806a#ID0EAABAAA=2016,_2013) so we can easily identify those updates.

Electronic Filing Requirements

This application form and supporting information must be submitted electronically using our [Application Submission Webform](https://oio.linz.govt.nz/oio-app-submissions). The webform is a secure upload site and provides details of our electronic filing requirements.

Please do not provide hard copy versions of your documents.

|  |  |  |
| --- | --- | --- |
| Checklist | | |
| 1. | Electronic copy of your signed application (without attachments) |  |
| 2. | Electronic copy of each attachment to your application (number and describe each appendix as follows: ‘Attachment 01 – X’) |  |
| 3. | All PDF documents are:  ‘Printed to PDF’, or scanned and OCR’d (i.e., all text in the document can be copied)  Free from security restrictions  In colour (if the document contains colour)  If scanned, at 300 dpi (where possible) |  |

Version control

Record the details of each version of the application form below.

|  |  |  |
| --- | --- | --- |
| Version | Date | Description |
| *e.g., 1.0* | *e.g., 01/01/20* | *e.g., First version submitted to LINZ* |
| [Add] | [Add] | Click or tap here to enter text. |
| [Add] | [Add] | Click or tap here to enter text. |

Declaration

By signing the below I agree that:

* + The information provided in this application form (including any attachments) is true, correct and complete.
  + I have read and understood the privacy and information sharing notice in **Attachment 1** of this document.
  + I am the Applicant or I am a representative of the Applicant who has authority to sign on its behalf (e.g. director of the Applicant).

Applicant signature

Sign the application below.

|  |  |  |
| --- | --- | --- |
|  | | |
| [Sign here] | | Date [e.g., 01/01/20] |
| [Name] | [Position] | [Date] |

Application signature – Amended version

You may be required to sign the amended application form if there are material changes.

|  |  |  |
| --- | --- | --- |
| Sign the amended version of the application form below if we request you to. | | |
| [Sign here] | | Date [e.g., 01/01/20] |
| [Name] | [Position] | [Date] |

Definitions

Add defined terms you will use in this application in the table below. Use meaningful terms that are easily remembered and will be used consistently throughout this application - for example, abbreviated company names for quick reference. Ensure that the terms are not duplicated with different meanings.

|  |  |
| --- | --- |
| Act | Overseas Investment Act 2005 |
| Regulations | Overseas Investment Regulations 2005 |
|  |  |

Confidentiality

Does any information in this application need to be kept confidential from other parties to this application?

There is no need to make general confidentiality statements.

1. Response

Decision date

Is there a date by which the decision is requested? If so, provide the requested decision date and explain the reason why a decision is required by this date.

1. Response

Section 1: Exemption

Explain what the exemption will cover (i.e a transaction / person / interest / right / assets). Note that discretionary exemptions do not allow for class exemptions:

1. Response

Has the sensitive asset, the Applicant, and/or related entities been subject of consent before? If yes, provide all relevant consent numbers:

1. Response

Does the Applicant hold any existing interests in sensitive assets (as defined in [section 6(1)](https://www.legislation.govt.nz/act/public/2005/0082/latest/DLM356891.html) of the Act)? If yes, give a statement about their interests in sensitive assets:

1. Response

Explain why the transaction otherwise requires consent under the Act (including reference to the relevant sections):

1. Response

Section 2: Transaction

If you are acquiring a target entity or assets, describe what is being acquired.

1. Response

Tell us in detail about the target entity and their business if relevant to the exemption you seek.

1. Response

**Transaction Details**

Tell us about the proposed transaction, relevant agreements, and steps involved in the transaction. Clearly identify all parties to the transaction, including the entity/individuals acquiring the investment, the target entity, the vendor, and any associates who hold a direct or indirect interest in the Applicant. Include details of any pre-conditions to completion, other than OI consent or exemption. Upload a diagram if this will help explain the transaction.

1. Response

Section 3: Criteria

Explain the requested extent of the exemption. The extent must not be broader than reasonably necessary (e.g. covers a specific transaction only):

1. Response

Tell us why the exemption being sought is necessary, appropriate, or desirable with regard to the matters referred to in [section 61B(a) to (c)](https://www.legislation.govt.nz/act/public/2005/0082/latest/LMS111955.html):

1. Response

Tell us how an exemption in this instance is consistent with the [purpose of the Act](http://www.legislation.govt.nz/act/public/2005/0082/latest/DLM356887.html):

1. Response

Tell us about the extent to which effective ownership or control is changed by the overseas investment, or remains with persons who are not overseas persons, and the extent to which that the sensitive asset is already held in overseas ownership or control:

1. Response

If applicable, explain why the acquisition is the result of the operation of other legislation or an event outside the overseas person's control:

1. Response

Give the extent of time an overseas person is likely to have ownership or control of a right or interest, for what purpose, and the likely impact on the sensitive assets of that ownership or control:

1. Response

Tell us about any other matters that are relevant in the circumstances:

1. Response

Section 4: Applicant

Business operations

Provide an overview of the Applicant’s business operations (both worldwide and any operations in NZ). Include an overview of the parent and other group member’s business operations if relevant:

1. Response

Financial position

Give a short summary of the Applicant's financial position:

Discuss market capitalisation, gross revenue, net profit, net asset value. If the Applicant is an individual (or a group of individuals), provide a brief summary of the Applicant's financial position.

1. Response

Ownership

Explain the ownership of the Applicant (using structure diagrams to illustrate). Please explain here where ownership breakdowns might be different depending on a calculation of voting rights vs capital distribution rights:

1. Response

Beneficial ownership table:

In the table below, identify all beneficial owners, individuals with greater than 5% interest (either alone or together with associates) in the Applicant.

If it is not possible to identify individual beneficial owners, entities may be included in the table instead.

For any entities in the table, provide a description of the entity (including who owns/controls it), and if it is not possible to identify the individual why it is not possible to identify the individual e.g. A Norwegian superannuation fund for the benefit of state sector employees managed by the Norwegian Government entity 'X'.

We acknowledge that in some cases it may not be possible to identify beneficial owners with holdings below the 5% threshold – these may be included as the entity class ‘various owners with <5% interests’

| Beneficial owner | Percentage | Description |
| --- | --- | --- |
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Ownership by country table:

Provide a breakdown of ultimate beneficial ownership of the Applicant by country.

Avoid grouping countries or listing ownership by continent.

For listed companies, an Applicant should provide the most accurate information they can (rounded to one decimal place) about the location of their shareholders and be clear about the source of that information. Widely held shareholding can be recorded as the corresponding region - or if unable to be determined by country use region e.g. North America or select 'Various regions', or if the country has a less than 1% ownership stake.

| Country | Percentage (must total 100%) |
| --- | --- |
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Control

Explain how the target entity or assets will be controlled if relevant to your exemption.

Include an explanation of who:

* made the decision to acquire the target entity or assets,
* who would make the decision to divest the target entity or assets and
* who can approve significant capital and operating expenditure.

Refer to decision making delegations if applicable:

1. Response

Attachment 1: Privacy and information sharing notice

We collect information to decide whether you are eligible, and to monitor your compliance with conditions of consent. Toitū Te Whenua Land Information New Zealand (**LINZ**) collects information about you on this form to:

* + decide whether you are eligible for LINZ consent to invest in sensitive New Zealand assets, and
  + monitor that conditions are met if we grant consent.

We are authorised to collect this information under the Overseas Investment Act 2005.

We can share your information for some purposes

We may share information about you as part of:

* + Administering, monitoring and enforcing the Overseas Investment Act 2005.
  + Meeting information-sharing agreements we have with some New Zealand government agencies. For example, we share information with the Ministry of Business, Innovation and Employment and the Department of Internal Affairs to verify passport and visa information and travel movements, and to monitor whether a person has become a New Zealand citizen.
  + Sharing information to maintain the law, such as volunteering information to Inland Revenue, NZ Police, the Ministry of Business, Innovation and Employment, the Serious Fraud Office, and other law enforcement agencies.
  + Consulting with relevant stakeholders as to your benefit claims and features of the investment, including central government organisations such as the Department of Conservation, Ministry of Business, Innovation and Employment, and Ministry of Primary Industries, Crown entities such as Ministry of Arts, Culture and Heritage and the NZ Transport Agency, and Crown agents such as the Walking Access Commission.

Applications for consent that you submit to LINZ are a public record. However, the Official Information Act 1982 and the Privacy Act 2020 have provisions that allow us to withhold information contained in an application. More information about the privacy and confidentiality of the information contained in an application can be found at [Privacy, confidentiality, and sharing of information](https://www.linz.govt.nz/overseas-investment/apply/you-apply/privacy-confidentiality-and-sharing-information).

We keep your information secure

All relevant information about you is collected in line with the Overseas Investment Act 2005 and Privacy Act 2020 and is held securely by LINZ. Under the Privacy Act 2020, you may request this personal information and ask for any errors to be corrected.

You do not have to provide all the information requested in this form, but not doing so may make it difficult to process your request under the Overseas Investment Act 2005. Please [contact us](https://www.linz.govt.nz/overseas-investment/contact/contact-overseas-investment-office) if you have any questions or concerns about the information in this form.