

**Reprint  
as at 12 November 2018**



## **Land Transfer Amendment Act 2015**

Public Act      2015 No 82  
Date of assent    22 September 2015  
Commencement    see section 2

Land Transfer Amendment Act 2015: repealed, on 12 November 2018, pursuant to section 248(1) of the Land Transfer Act 2017 (2017 No 30).

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#### **Note**

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint. Note 4 at the end of this reprint provides a list of the amendments incorporated.

**This Act is administered by the Ministry of Justice and Land Information New Zealand.**

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Land Transfer Amendment Act 2015.

**2 Commencement**

This Act comes into force on 1 October 2015.

**3 Principal Act**

This Act amends the Land Transfer Act 1952 (the **principal Act**).

**4 New section 2AA inserted (Transitional, savings, and related provisions)**

After section 2, insert:

**2AA Transitional, savings, and related provisions**

The transitional, savings, and related provisions set out in Schedule 1AA have effect according to their terms.

**5 New sections 156A to 156J and cross-heading inserted**

After section 156, insert:

*Tax statement required for registration of instrument to transfer some estates  
in land*

**156A Interpretation**

- (1) For the purpose of this section and sections 156B to 156J, unless the context otherwise requires,—

**certifier** means a person who provides the certification for a transferor or a transferee in accordance with section 164A for a transfer of a specified estate in land

**chief executive** means the chief executive of the department

**main home** means, for a person, the 1 dwelling—

- (a) that is mainly used as a residence by the person (a **home**); and
- (b) with which the person has the greatest connection, if they have more than 1 home

**nominee** has the meaning given to it in section YB 21(2) of the Income Tax Act 2007

**offshore person** has the meaning given to it in section 3(1) of the Tax Administration Act 1994

**specified estate in land** means—

- (a) freehold estates, including fee simple and life estates; and
- (b) leasehold estates; and
- (c) stratum estates in freehold within the meaning of the Unit Titles Act 2010; and
- (d) stratum estates in leasehold within the meaning of the Unit Titles Act 2010; and
- (e) licences to occupy (as defined in section 121A(1)); and
- (f) any other estate in land declared to be a specified estate in land by regulations made under this Act

**tax information** means the information specified in a tax statement in accordance with—

- (a) section 156C(1)(b) to (g) and (if applicable) (2); and
- (b) if applicable, section 156D

**tax statement** means a statement that is completed and given in accordance with—

- (a) sections 156B and 156C; and
- (b) if applicable, section 156D.

(2) For the purpose of this section and sections 156B to 156J, **non-notifiable transfer**—

- (a) means,—
  - (i) in relation to a transferee who is a natural person, the transfer of land that is intended to be used predominantly for a dwelling that will be the transferee's main home;
  - (ii) in relation to a transferor who is a natural person, the transfer of land that has been used predominantly, for most of the time the

- transferor owned the land, for a dwelling that was the transferor's main home:
- (iii) any other transfer specified in regulations made under this Act as a non-notifiable transfer; but
- (b) does not include—
- (i) a transfer described in paragraph (a)(i) if the transferee will own the land as a trustee:
  - (ii) a transfer described in paragraph (a)(ii) if the transferor owned the land as a trustee:
  - (iii) a transfer described in paragraph (a)(ii) if the transferor has relied on that paragraph at least 2 times within the 2 years immediately preceding the date of the transfer to claim that transfers were non-notifiable transfers:
  - (iv) any transfer, in relation to a transferee or a transferor who is an offshore person.

**156B Transferors and transferees must provide tax statement stating that transfer non-notifiable or providing tax information**

- (1) An instrument to transfer a specified estate in land is not in order for registration unless—
  - (a) each of the transferors and transferees completes a tax statement; and
  - (b) the tax information in that statement is given to the chief executive in accordance with subsection (2) or (3).
- (2) If the instrument is an electronic instrument,—
  - (a) the transferor or transferee must give the tax statement to the certifier; and
  - (b) the certifier must give the tax information in that statement to the chief executive by lodging the information in an electronic workspace facility approved by the Registrar under section 22 of the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002 when lodging the instrument for registration.
- (3) If the instrument is a paper instrument, the tax statement must be attached to the instrument when the instrument is lodged for registration in accordance with section 47.

**156C Content of tax statement**

- (1) A tax statement completed by or on behalf of a transferor or transferee must—
  - (a) be signed by the transferor or transferee; and
  - (b) be dated on the date on which it was signed; and
  - (c) state the transferor or transferee's full name; and

- (d) state whether the transfer is of land that has a home on it; and
  - (e) state whether the transferor or, as the case may be, the transferee, or a member of that person's immediate family, is a New Zealand citizen or a holder of a resident visa, work visa, or student visa; and
  - (f) in the case of a transferee, if the transferee or a member of the transferee's immediate family is a holder of a work visa or student visa, state whether the transferee or a member of the transferee's immediate family intends living on the land; and
  - (g) either—
    - (i) state that the transfer instrument is for a non-notifiable transfer (or, as the case may be, is, in respect of the transferor or transferee making the statement, a non-notifiable transfer) and specify the category of that non-notifiable transfer; or
    - (ii) provide all of the information set out in subsection (2).
- (2) The information must include all of the following:
- (a) the transferor or transferee's IRD number; and
  - (b) whether the transferor or transferee (without taking into account any double tax agreement that would otherwise apply) is, or is not, treated as tax resident in a jurisdiction other than New Zealand as at the date of the statement; and
  - (c) if the transferor or transferee is (without taking into account any double tax agreement that would otherwise apply) treated as tax resident in a jurisdiction other than New Zealand as at the date of the statement,—
    - (i) the name of that jurisdiction; and
    - (ii) the country code for that jurisdiction as prescribed by the Commissioner of Inland Revenue; and
    - (iii) the equivalent of the transferor or transferee's IRD number in that jurisdiction.
- (3) However, if a transferor or transferee is—
- (a) acting in the capacity of the trustee of a trust, the information must relate to the trustee in that capacity; or
  - (b) acting as a nominee or under a power of attorney, the information must relate to the person who made the nomination or granted the power of attorney; or
  - (c) acting in the capacity of a partner in a partnership, the information must relate to the partnership; or
  - (d) a person acting on behalf of an unincorporated body, the information must relate to the unincorporated body.

- (4) To avoid doubt, a transferor or transferee who does not have an IRD number must request one for the purpose of providing the information required by subsection (2)(a).
- (5) In this section, **IRD number** has the meaning given to tax file number by section 3(1) of the Tax Administration Act 1994.
- (6) For the purpose of subsection (1)(d), **home** means a dwelling mainly used as a residence.

#### **156D Omissions and errors**

- (1) An omission or error in any tax information provided in accordance with section 156B(2) or (3) must be corrected as follows:
  - (a) if the tax information in a tax statement was incorrect, the transferor or transferee must complete a corrected tax statement in accordance with section 156C and, if applicable, give it to the relevant certifier in accordance with section 156B(2)(a):
  - (b) if the incorrect tax information was given to the chief executive by lodging the information in an electronic workspace facility in accordance with section 156B(2)(b), the certifier must lodge the corrected tax information in an electronic workspace facility:
  - (c) if the incorrect tax information was given to the chief executive by attaching a tax statement to an instrument in accordance with section 156B(3), the corrected tax statement must be given to the chief executive.
- (2) An omission or error in any tax information provided in accordance with section 156B(2) or (3), or any other failure to comply with sections 156B and 156C, does not—
  - (a) affect the validity of any registration of an instrument to transfer a specified estate in land; or
  - (b) give rise to any liability of, or claim for compensation from, the chief executive, the Registrar-General, or the Crown.

#### **156E Offence to provide false or misleading tax information**

- (1) A person commits an offence if the person gives a tax statement to a certifier or the chief executive in accordance with section 156B(2) or (3) or section 156D that, to the person's knowledge or with intent to deceive, contains false or misleading tax information.
- (2) A person who commits an offence under subsection (1) is liable,—
  - (a) the first time the person is convicted, to a fine not exceeding \$25,000; and
  - (b) on every other occasion the person is convicted, to a fine not exceeding \$50,000.

**156F Chief executive must supply tax information to Commissioner of Inland Revenue**

- (1) The chief executive must supply to the Commissioner of Inland Revenue tax information and details about the transfer or transfers to which the tax information relates that are held by Land Information New Zealand.
- (2) The chief executive and the Commissioner may, for the purpose of this section, determine by written agreement between them, in relation to the information that must be supplied under subsection (1),—
  - (a) the frequency with which the information must be supplied; and
  - (b) the form in which the information must be supplied; and
  - (c) the method by which the information must be supplied.
- (3) Subsection (1) applies despite anything in the Domestic Violence Act 1995.

**156G Other provisions concerning use of tax information**

The chief executive may release the information specified in section 156C(1)(d), (e), (f), and (g), (2)(b), and (c)(i) and (ii) that is held by Land Information New Zealand, or give that information to any person as soon as practicable after receiving a request in writing from the person, provided that information is given—

- (a) in aggregate form only; and
- (b) in a manner that prevents any particular person, estate in land, or transaction from being identified.

**156H Certifier and chief executive must hold tax statement and provide copies**

- (1) A certifier must—
  - (a) retain each tax statement given to him or her in accordance with section 156B(2) or 156D for 10 years; and
  - (b) give a copy of that statement to the Commissioner of Inland Revenue as soon as practicable after receiving a request in writing from the Commissioner.
- (2) The chief executive must—
  - (a) retain each tax statement given to him or her in accordance with section 156B(3) or 156D for 10 years; and
  - (b) give a copy of that statement to the Commissioner of Inland Revenue as soon as practicable after receiving a request in writing from the Commissioner.

**156I Status of tax information**

- (1) The chief executive and certifiers must not use tax information, or disclose tax information to any person, except as set out in sections 156B, 156D, 156F, 156G, 156H, and 156J, or as authorised or required by order of a court.

- (2) Tax information does not form part of the register and must not be made accessible to the public.

### **156J Disclosure of information between authorised persons**

- (1) No obligation as to secrecy or other restrictions imposed by an enactment or otherwise on the disclosure of information prevents—
- (a) an authorised person from disclosing tax information to another authorised person for the purpose of sections 156B, 156D, 156F, 156G, and 156H; or
  - (b) an authorised person from disclosing to another authorised person any information for the purpose of verifying tax information; or
  - (c) an authorised person from disclosing to another authorised person any information for the purpose of administering the Inland Revenue Acts, to the extent that the administration of those Acts concerns tax information; or
  - (d) an authorised person from disclosing to another authorised person any information for the purpose of detecting, investigating, or prosecuting a potential offence under section 156E.

- (2) In this section,—

**authorised person** means—

- (a) the Commissioner of Inland Revenue or an Inland Revenue officer who is authorised by the Commissioner to disclose and receive information under this section; or
- (b) the chief executive, or an employee of the department who is authorised by the chief executive to disclose and receive information under this section

**Inland Revenue Acts** has the meaning given in section 3(1) of the Tax Administration Act 1994.

## **6 Section 164B amended (Who may give certification)**

- (1) In section 164B(2)(c), replace “section 164C” with “section 156B(2)(b), 156D(1)(b), 156H, or 164C”.
- (2) In section 164B(4)(b), replace “section 164C” with “sections 156B(2)(b), 156D(1)(b), 156H, and 164C”.

## **7 Section 236 amended (Regulations)**

- (1) After section 236(1)(h), insert:
  - (ha) for the purposes of sections 156A and 156B (and where the conditions in subsection (4) of this section are satisfied),—
    - (i) specifying transfers of specified estates in land that are exempt from the requirements of section 156B, including by reference to



- the nature of the transferor, transferee, transaction, type of estate in land, class of estate in land, or otherwise:
- (ii) specifying transfers of specified estates in land that are non-notifiable transfers (which may be non-notifiable in relation to the transferee, the transferor, or both), including by reference to the nature of the transferor, transferee, transaction, type of estate in land, class of estate in land, or otherwise:
- (hb) declaring estates in land that are specified estates in land for the purposes of section 156A:
- (2) After section 236(3), insert:
- (4) Regulations may be made under subsection (1)(ha) only on the recommendation of the Minister for Land Information, if the Minister is satisfied that—
- (a) requiring persons to comply with the requirements of section 156B in the case of the transfers proposed to be specified as exempt or non-notifiable would be impractical or involve high compliance costs; or
  - (b) there is a low risk of tax avoidance in relation to the transfers proposed to be specified as exempt or non-notifiable.

**8 New Schedule 1AA inserted**

Insert the Schedule 1AA set out in the Schedule of this Act as the first schedule to appear after the last section of the principal Act.

**9 Consequential amendment to Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002**

- (1) This section amends the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002.
- (2) After section 23(1)(b), insert:
- (ba) the instrument is associated with the information required under section 156B(2) of the principal Act; and

**Schedule**  
**New Schedule 1AA inserted**

s 8

**Schedule 1AA**  
**Transitional, savings, and related provisions**

s 2AA

**Part 1**  
**Provisions relating to Land Transfer Amendment Act 2015**

**1 Application of sections 156A to 156J**

Sections 156A to 156J do not apply to any transfer of land if—

- (a) the contract for the transfer of the land was entered into before 1 October 2015; and
- (b) the transfer is registered on or before 1 April 2016.

## Reprints notes

### **1**    *General*

This is a reprint of the Land Transfer Amendment Act 2015 that incorporates all the amendments to that Act as at the date of the last amendment to it.

### **2**    *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

### **3**    *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

### **4**    *Amendments incorporated in this reprint*

Land Transfer Act 2017 (2017 No 30): section 248(1)