

1978/84



## THE EXCHANGE CONTROL EXEMPTION NOTICE 1978

PURSUANT to the Exchange Control Regulations 1978, the Minister of Finance hereby gives the following notice.

### ANALYSIS

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| <ol style="list-style-type: none"> <li>1. Title and commencement</li> <li>2. Interpretation</li> <li>3. Exemptions from regulation 3 (1) (a) (taking or sending money from New Zealand)</li> <li>4. Exemptions from regulation 3 (1) (b) (bringing or sending New Zealand money to New Zealand)</li> <li>5. Exemptions from regulation 3 (1) (c) (giving valuable consideration in New Zealand in return for valuable consideration outside New Zealand and vice versa)</li> <li>6. Exemptions from regulation 3 (1) (d) (taking, sending, or transferring securities from New Zealand)</li> </ol> | <ol style="list-style-type: none"> <li>7. Exemptions from regulation 3 (1) (e) (issue, transfer, or delivery of a security to a person not ordinarily resident in New Zealand)</li> <li>8. Exemptions from regulation 3 (1) (f) (borrowing money outside New Zealand)</li> <li>9. Exemptions from regulation 3 (1) (i) (exchanging foreign currency for New Zealand money)</li> <li>10. Exemptions from regulation 4 (money and securities taken, sent, or transferred from New Zealand)</li> <li>11. Exemptions from regulation 7 (overseas remuneration to be paid to a bank)</li> <li>12. Exemptions from regulation 8 (dealings with foreign currency and foreign securities)</li> <li>13. Revocations Schedules</li> </ol> |
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### NOTICE

**1. Title and commencement**—(1) This notice may be cited as the Exchange Control Exemption Notice 1978.

(2) This notice shall come into force on the 1st day of April 1978.

**2. Interpretation**—(1) In this notice, unless the context otherwise requires,—

“The regulations” means the Exchange Control Regulations 1978: Expressions defined in the regulations have the meanings so defined.

(2) For the purposes of this notice, a security shall be deemed to be related to a country other than New Zealand if—

(a) The person issuing the security is ordinarily resident in that country; and

(b) All amounts payable thereunder or pursuant thereto are payable in the currency of that country.

(3) For the purposes of this notice, a person shall be deemed to be ordinarily resident in a country other than New Zealand if he is not ordinarily resident in New Zealand and—

- (a) Being an individual, he is recognised, under the law for the time being in force in that country and relating to the control of overseas exchange, as being ordinarily resident in that country; or
- (b) Being a body corporate, it is incorporated in, or has its head office in, that country.

**3. Exemptions from regulation 3 (1) (a) (taking or sending money from New Zealand)**—There is hereby exempted from the application of regulation 3 (1) (a) of the regulations—

- (a) The taking by travellers of New Zealand money (being bank notes in denominations of \$1 or \$2 or \$5 or coin of any denomination) not exceeding in the case of each traveller \$50, of which not more than \$4 may be in coin; and
- (b) The sending from New Zealand, by a public company the ordinary shares or other securities of which are quoted on the official list of the Stock Exchange Association of New Zealand, of cheques payable to persons permanently resident outside New Zealand, including companies incorporated outside New Zealand, if—
  - (i) Each such cheque is issued only for the purpose of payment of dividend on shares or stock, or of interest on debentures, debenture stock, or unsecured notes issued by the company which are quoted on the official list of the Stock Exchange Association of New Zealand;
  - (ii) The cheque is expressed in New Zealand currency and drawn on an account of the company at a New Zealand branch of a trading bank operating in New Zealand;
  - (iii) The cheque is enfaced with words which clearly indicate that it is issued in payment of dividend on shares or stock, or of interest on debentures, debenture stock, or unsecured notes issued by the company;
  - (iv) The payee of the cheque is the person registered in the register maintained by the company as the holder of the said shares or stock in the company or of the said debenture, debenture stock, or unsecured notes issued by the company; and
  - (v) The address of the payee is enfaced on the cheque, is an address outside New Zealand, and corresponds with the address of the holder shown in the said register.

**4. Exemptions from regulation 3 (1) (b) (bringing or sending New Zealand money to New Zealand)**—There is hereby exempted from the application of regulation 3 (1) (b) of the regulations the bringing into New Zealand by travellers of New Zealand money being bank notes in denominations of \$1 or \$2 or \$5 or coin of any denomination.

**5. Exemptions from regulation 3 (1) (c) (giving valuable consideration in New Zealand in return for valuable consideration outside New Zealand and vice versa)**—(1) There is hereby exempted from the application of regulation 3 (1) (c) of the regulations—

- (a) Any transaction taking place in New Zealand between a person ordinarily resident in New Zealand and a person not ordinarily resident in New Zealand whereby New Zealand money or other

remuneration in New Zealand is provided in exchange for foreign currency, if the foreign currency so obtained is sold forthwith for New Zealand money to any trading bank:

- (b) Any transaction in respect of which regulation 7 of the regulations is complied with:
- (c) Any transaction in respect of which regulation 9 of the regulations is complied with:
- (d) Any contract between persons ordinarily resident in New Zealand for the sale and purchase for New Zealand currency of securities issued by Comalco Limited which are registered on a register in New Zealand and are endorsed in accordance with the First Schedule to this notice.

(2) Subject to subclauses (3) to (5) of this clause, there is hereby exempted from the application of regulation 3 (1) (c) of the regulations any contract between persons ordinarily resident in New Zealand for the sale and purchase of eligible foreign securities in exchange for New Zealand currency.

(3) The exemption granted by subclause (2) of this clause is subject to compliance with all the following conditions, namely:

- (a) The transaction shall be effected through a member of a registered stock exchange in New Zealand:
- (b) Unless the Reserve Bank otherwise directs in any particular case, the purchaser shall cause the scrip or other documents evidencing title to the securities purchased to be lodged forthwith after the purchase with an approved depository by endorsing on or attaching to the transfer, when it is forwarded for registration, an order that such scrip or other documents shall be delivered to the approved depository specified by him in the order, to be held by the approved depository on account of the purchaser:
- (c) No scrip or other documents so lodged with an approved depository shall be withdrawn from the approved depository except for the purposes set out in subclause (4) of this clause:
- (d) Forthwith after the completion of the sale and purchase, the seller and the purchaser shall each give notice in writing to the Reserve Bank, setting out full particulars of the sale and purchase.

(4) The scrip or other documents so lodged with an approved depository may be released only to a member of a registered stock exchange in New Zealand for the following purposes, namely:

- (a) For the sale of the securities to a person ordinarily resident in New Zealand in exchange for New Zealand currency and subject to compliance with the conditions set out in subclause (3) of this clause; or
- (b) For the sale of the securities outside New Zealand, through the agency of a member of a registered stock exchange in New Zealand, subject to compliance with one of the following conditions, namely:
  - (i) Forthwith after the sale the net proceeds thereof shall be remitted to New Zealand by their sale to a trading bank; or
  - (ii) Unless the Reserve Bank otherwise directs in any particular case, the foreign currency representing the net proceeds of the sale of the securities shall be held in the name of the member of the New Zealand stock exchange through whose

agency the sale was effected, and shall, within 3 months be reinvested, subject to subclause (5) of this clause, in eligible foreign securities or in foreign securities listed on an official overseas stock exchange for the person on whose account the scrip or other documents so released were held by the approved depository.

(5) Where any foreign currency is reinvested in securities pursuant to paragraph (b) (ii) of subclause (4) of this clause, the scrip or other documents evidencing title to all securities so purchased shall be lodged with an approved depository in accordance with subclause (3) of this clause, and subclauses (2) to (4) of this clause shall apply accordingly.

(6) For the purposes of this clause—

“Approved depository” means the Chief Accountant of the Reserve Bank at Wellington, or the Manager of the Reserve Bank at Auckland, or the Manager of the Reserve Bank at Christchurch:

“Eligible foreign securities” means—

(a) Any foreign securities that were on the 16th day of June 1966 registered or inscribed solely in the name or names of a person or persons ordinarily resident in New Zealand and have continuously been so registered or inscribed since that day; or

(b) Any foreign securities acquired, by a person or persons ordinarily resident in New Zealand, in accordance with clause 4A of the Exchange Control Exemption Notice 1965 and pursuant to a contract of sale and purchase entered into before the day this notice comes into force;—

but does not include mortgages, liens, treasury bills, coupons or warrants representing dividends or interest, life or endowment insurance policies, or any security for which scrip or some other document evidencing title is not issued.

(7) Where there is doubt whether a foreign security is an eligible foreign security for the purposes of this clause, the Reserve Bank may determine whether the security is an eligible foreign security for such purpose, and any such determination shall be final and shall have effect according to its tenor.

**6. Exemptions from regulation 3 (1) (d) (taking, sending, or transferring securities from New Zealand)**—There is hereby exempted from the application of regulation 3 (1) (d) of the regulations the taking, sending, or transfer of any foreign security.

**7. Exemptions from regulation 3 (1) (e) (issue, transfer, or delivery of a security to a person not ordinarily resident in New Zealand)**—There is hereby exempted from the application of regulation 3 (1) (e) of the regulations any transaction involving the transfer or delivery of a foreign security to a person not ordinarily resident in New Zealand.

**8. Exemptions from regulation 3 (1) (f) (borrowing money outside New Zealand)**—(1) There is hereby exempted from the application of regulation 3 (1) (f) of the regulations—

(a) The borrowing of money outside New Zealand by any person ordinarily resident in New Zealand, subject to the condition that the money borrowed shall be used exclusively for the

purpose of financing exports from New Zealand or imports into New Zealand by that person and that the term of the borrowing (including any extension of that term) shall not in total exceed 12 months:

(b) The borrowing of any money payable or repayable in money of a country other than New Zealand if—

(i) Any security pledged in respect of the borrowing is related only to a country other than New Zealand; and

(ii) Every obligation arising therefrom extends only to foreign assets that are exempted from the application of regulation 8 of the regulations; and

(iii) Recourse to any asset in New Zealand is specifically excluded in the course of such borrowing.

(2) There is hereby exempted from the application of regulation 3 of the regulations the issue and the export of any security or promissory note or bill of exchange by a person ordinarily resident in New Zealand to secure repayment of money borrowed by that person pursuant to subclause (1) (a) of this clause.

**9. Exemptions from regulation 3 (1) (i) (exchanging foreign currency for New Zealand money)**—There is hereby exempted from the application of regulation 3 (1) (i) of the regulations the purchase in New Zealand by a person ordinarily resident in New Zealand from a person not ordinarily resident in New Zealand of any foreign currency, if the foreign currency is forthwith sold for New Zealand money to any trading bank.

**10. Exemptions from regulation 4 (money and securities taken, sent, or transferred from New Zealand)**—There is hereby exempted from the application of regulation 4 of the regulations any foreign security.

**11. Exemptions from regulation 7 (overseas remuneration to be paid to a bank)**—There is hereby exempted from the application of regulation 7 of the regulations any individual (other than a person domiciled in New Zealand) who would not be deemed to be ordinarily resident in New Zealand if for the words “12 months” in regulation 2 (3) (b) of the regulations there were substituted the words “3 years”.

**12. Exemptions from regulation 8 (dealings with foreign currency and foreign securities)**—There is hereby exempted from the application of regulation 8 of the regulations any foreign asset as defined in that regulation (not being an asset owned by a trading bank).

**13. Revocations**—The notices specified in the Second Schedule to this notice are hereby revoked.

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## SCHEDULES

Clause 5

## FIRST SCHEDULE

## ENDORSEMENTS TO BE MADE ON COMALCO LIMITED SHARES ON THE NEW ZEALAND REGISTER

1. All money from time to time payable by the subscriber for or holder of New Zealand Register shares in relation to them shall be paid in New Zealand in New Zealand currency.

2. New Zealand Register shares must be registered on the company's New Zealand register of members and shall not be transferable to any register not maintained in New Zealand except with the prior written consent of the Reserve Bank.

3. All dividends and return of capital on New Zealand Register shares shall be payable only in New Zealand and in New Zealand currency.

4. Scrip for New Zealand Register shares shall be delivered to an address in New Zealand.

5. Any shares which may be issued by the company deriving from rights conferred or created by New Zealand Register shares directly or indirectly, and any property rights conferred or created directly or indirectly by New Zealand Register shares, shall be capable of issue or conferment only upon and subject to the same terms and conditions as are hereinbefore specified, *mutatis mutandis*.

## SECOND SCHEDULE

Clause 13

## NOTICES REVOKED

Title	Reference
The Exchange Control Exemption Notice 1965 ..	S.R. 1965/159
The Exchange Control Exemption Notice 1965, Amendment No. 2 .. .. .	S.R. 1966/98
The Exchange Control Exemption Notice 1965, Amendment No. 3 .. .. .	S.R. 1966/165
The Exchange Control Exemption Notice 1965, Amendment No. 5 .. .. .	S.R. 1968/197
The Exchange Control Exemption Notice 1965, Amendment No. 6 .. .. .	S.R. 1969/186
The Exchange Control Exemption Notice 1965, Amendment No. 7 .. .. .	S.R. 1970/131
The Exchange Control Exemption Notice 1965, Amendment No. 8 .. .. .	S.R. 1971/149
The Exchange Control Exemption Notice 1965, Amendment No. 9 .. .. .	S.R. 1972/6
The Exchange Control Exemption Notice 1965, Amendment No. 10 .. .. .	S.R. 1972/9
The Exchange Control Exemption Notice 1965, Amendment No. 11 .. .. .	S.R. 1972/50
The notice dated the 28th day of September 1972 issued by the Reserve Bank and relating to the sending of dividend cheques from New Zealand	<i>Gazette</i> , 1972, Vol. III, p. 2085

Dated at Wellington this 23rd day of March 1978.

R. D. MULDOON,  
Minister of Finance.

## EXPLANATORY NOTE

*This note is not part of the notice, but is intended to indicate its general effect.*

This notice, which comes into force on 1 April 1978, consolidates and amends the Exchange Control Exemption Notice 1965. The principal differences between this notice and the previous notice are—

- (a) References to sterling area countries in the previous notice have been replaced by references to foreign countries in this notice:
- (b) Clause 3 (b) of this notice sets out provisions relating to the sending of dividend cheques from New Zealand that were formerly set out in a Notice issued by the Reserve Bank:
- (c) The definitions of “approved depository” and “eligible foreign securities” in clause 5 of this notice are different from those in the previous notice.  
This notice provides that where there is doubt whether a foreign security is an eligible foreign security for the purposes of clause 5, the Reserve Bank may determine the matter:
- (d) Clause 8 of this notice contains new exemptions relating to borrowing of money outside New Zealand:
- (e) Clause 1 of the First Schedule to this notice (which prescribes the endorsements to be made on Comalco Limited shares on the New Zealand register) differs slightly from the corresponding clause in the previous notice.

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Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 30 March 1978.

This notice is administered in the Reserve Bank of New Zealand.