



THE SECURITIES ACT (RETIREMENT HOMES) EXEMPTION NOTICE 1993

PURSUANT to the Securities Act 1978, the Securities Commission gives the following notice.

NOTICE

1. Title and commencement—(1) This notice may be cited as the Securities Act (Retirement Homes) Exemption Notice 1993.

(2) This notice shall come into force on the day after the date of its notification in the *Gazette*.

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

“The Act” means the Securities Act 1978:

“Specified debt securities” means debt securities in respect of a plan for the disposition of units in a complex which provides or is intended to provide residential accommodation for persons in their retirement:

“Specified participatory securities” means participatory securities in respect of a scheme for the disposition of units in a complex which provides or is intended to provide residential accommodation for persons in their retirement.

(2) Any term or expression that is not defined in this notice, but that is defined in the Act, has the meaning given to it by the Act.

3. Certain issuers exempted from certain provisions of the Securities Act 1978—(1) Subject to subclause (2) of this clause, each person named in the First Schedule to this notice, and every person acting on behalf of that person, is exempted from compliance with the provisions of section 37A (1)(e) of the Act in respect of any offer of specified debt securities or specified participatory securities, as the case may be, of which that person is the issuer.

(2) The exemption granted by subclause (1) of this clause is subject to the following conditions:

- (a) That no allotment of any such security to which that subclause applies shall be made if the date of allotment would be more than 15 months after the date of the most recent audited balance sheet set out, or attached to, or referred to, in accordance with

regulations made under the Act, in the registered prospectus relating to the security; and

(b) That the registered prospectus is accompanied by—

(i) An interim balance sheet of the issuer or the scheme, as the case may be (which need not be audited) that is drawn up as at a stated date that is not more than 9 months after the date of the balance sheet referred to in paragraph (a) of this subclause and that gives a true and fair view of the state of affairs of the issuer or the scheme as at that date; and

(ii) A profit and loss account of the issuer or the scheme, as the case may be, (which need not be audited) that gives a true and fair view of the results of the issuer or the scheme for the period from the date of the balance sheet referred to in paragraph (a) of this subclause to the date of the interim balance sheet; and

(iii) A statement of cash flows for the issuer or the scheme, as the case may be, (which need not be audited) that gives a true and fair view of the cash flows of the issuer or the scheme for the period from the date of the balance sheet referred to in paragraph (a) of this subclause to the date of the interim balance sheet; and

(iv) A statement signed by or on behalf of each director of the issuer or by the manager of the scheme, as the case may be, and dated not earlier than one month before the date of its publication as to whether, after due enquiry by the directors or the manager in relation to the period between the interim balance date and the date of the statement, there have, in their opinion, arisen any circumstances that materially adversely affect—

(A) The trading or profitability of the issuer or the scheme; or

(B) The value of the assets of the issuer or the scheme; or

(C) The ability of either the issuer or the scheme to pay their respective liabilities due within the next 12 months.

(3) Nothing in subclause (2) (b) (iii) of this clause applies to a registered prospectus that is registered before the close of the 31st day of March 1994.

(4) The exemption granted by subclause (1) of this clause is subject, in the case of each of the persons named in the Second Schedule to this notice, to the condition that the registered prospectus is accompanied by the most recent audited financial statements of that person.

(5) Each person named in the First Schedule to this notice, and every person acting on its behalf, is exempted from compliance with the provisions of section 37A (2) of the Act in respect of any offer of specified participatory securities of which that person is the issuer.

4. Certain issuers exempted from certain provisions of the Securities Regulations 1983—(1) Subject to subclause (2) of this clause, every person named in the Third Schedule to this notice, and every person acting on its behalf, is exempted from compliance with the requirements of—

(a) Clause 1 (4) of the Second Schedule to the Regulations in respect of any offer of specified debt securities of which that person is the issuer:

- (b) Clause 1 (4) of the Third Schedule to the Regulations in respect of any offer of specified participatory securities of which that person is the issuer.
- (2) The exemption granted by subclause (1) of this clause is subject to the condition that the registered prospectus in which the offer is made—
- (a) Contains a formula for determining the price of the securities; and
 - (b) States both the minimum and the maximum price payable for the securities.

5. Revocations—The following notices are hereby revoked:

- (a) The Securities Act (Retirement Homes) Exemption Notice 1992*;
- (b) The Securities Act (Retirement Homes) Exemption Notice 1992, Amendment No. 1†.

*S.R. 1992/85
†S.R. 1992/192

SCHEDULES

FIRST SCHEDULE

Greenwood Lifestyles Limited.
Greenwood Park Village Limited.
Hibiscus Coast Village Limited.
Hillsborough Heights Village Limited.
Kapiti District Trust Board.
Maryville Courts Trust Board.
Metropolitan Life Retirement Villages Limited.
Northcross Villages Limited.
North Shore Village Limited.
Omokoroa Retirement Village Limited.
Parkwood Trust Incorporated.
Remuera Gardens Management Limited.
Ronald John Thompson.
Social Service Council of the Diocese of Christchurch.
The Perry Foundation.
United Lifecare Limited.
United Lifecare (Nelson) Limited.
Villages of New Zealand (Pakuranga) Limited.

SECOND SCHEDULE

Metropolitan Life Retirement Villages Limited.
The Perry Foundation.

THIRD SCHEDULE

Kapiti District Trust Board.
Parkwood Trust Incorporated.

Dated at Wellington this 17th day of December 1993.

The Common Seal of the Securities Commission was hereunto affixed in the presence of:

[L.S.]

P. D. McKENZIE,
Chairman.

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 the day after the date of its notification in the *Gazette*, replaces the Securities Act (Retirement Homes) Exemption Notice 1992. The notice is the same as that notice except in 2 respects.

First, the notice adds, as a condition of the exemption from compliance with section 37A (1) (e) of the Securities Act 1978, a requirement that the registered prospectus is accompanied by a statement of cash flows for the issuer or the scheme, as the case may be, for the period from the date of the audited balance sheet set out in the prospectus to the date of the interim balance sheet. This additional condition does not apply to prospectuses registered before 31 March 1994.

Secondly, Remuera Gardens Management Limited is added to the First Schedule.

Clause 3 of the notice exempts the persons named in the First Schedule to the notice from compliance with section 37A (1) (e) of the Securities Act 1978 in the case of offers of debt securities and participatory securities in retirement home complexes. The exemption will allow allotments of the securities to be made within 15 months of the date of an audited balance sheet set out, or attached to, or referred to in the registered prospectus. The exemption is subject to the condition that the prospectus is accompanied by—

- (a) An interim balance sheet (which need not be audited) that is drawn up at a date that is not more than 9 months after the date of the audited balance sheet and that gives a true and fair view of the affairs of the issuer or the scheme as at that date; and
- (b) A profit and loss account (which need not be audited) that gives a true and fair view of the results of the issuer or the scheme for the period from the date of the balance sheet set out in the prospectus to the date of the interim balance sheet; and
- (c) A statement of cash flows (which need not be audited) that gives a true and fair view of the cash flows for the issuer or the scheme for the period from the date of the balance sheet set out in the prospectus to the date of the interim balance sheet; and
- (d) A statement by the directors of the issuer in the case of debt securities, or the manager of the scheme in the case of participatory securities, dated not earlier than one month before publication of the statement as to whether in relation to the period between the interim balance date and the date of the statement there have arisen any circumstances that materially adversely affect—
 - (i) The trading or profitability of the issuer or scheme; or
 - (ii) The value of the assets of the issuer or scheme; or
 - (iii) The ability of the issuer or the scheme to pay their liabilities due within the next 12 months.

The requirement that the prospectus be accompanied by a statement of cash flows does not apply in respect of prospectuses registered before 31 March 1994.

This exemption is subject, in the case of 2 of the persons named in the First Schedule to the notice, to the additional condition specified in subclause (4).

Clause 3 of the notice also exempts the persons named in the First Schedule from compliance with the provisions of section 37A (2) of the Securities Act 1978 in the case of offers of participatory securities in retirement home complexes. Section 37A (2) of the Act

prohibits allotments of participatory securities unless the amount payable on application for the security is at least 10 percent of the nominal value of the security.

Clause 4 exempts Kapiti District Trust Board and Parkwood Trust Incorporated, subject to conditions, from the provisions of clause 1 (4) of the Second Schedule to the Securities Regulations 1983 and clause 1 (4) of the Third Schedule to those regulations in the case of offers of specified debt securities and specified participatory securities, respectively.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 22 December 1993.
This notice is administered in the Securities Commission.