



**THE SECURITIES ACT (STAFF SAVINGS)
EXEMPTION NOTICE 1986**

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

NOTICE

1. Title and commencement—(1) This notice may be cited as the Securities Act (Staff Savings) Exemption Notice 1986.

(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:

“Company” means a company appointed under clause 3 (2) (a) (i) or clause 3 (2) (b) (ii) of this notice:

“Specified debt security” means a debt security in the form of a deposit which is offered for subscription to any person who is, at the date when the offer is made—

(a) An employee of the issuer of that debt security; or

(b) An employee of a body corporate which is related to a body corporate which is the issuer of that debt security.

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

3. Issuers of specified debt securities exempt from compliance with certain provisions of the Securities Act 1978—(1) Subject to subclauses (2) and (3) of this clause, every issuer and every person acting on its behalf is exempt from compliance with the provisions of sections 33 (2), 37, 37A and 38 (a) to (c) of the Act in respect of any offer of specified debt securities.

(2) The exemption granted by subclause (1) of this clause is subject to compliance with either of the following conditions, namely—

(a) That—

(i) The specified debt securities are, and will at all times be, secured by a debenture or debenture stock, issued by the issuer or any other person to a company appointed by the issuer or that

person to act as trustee on behalf of the holders of those specified debt securities, for an amount not less than the cumulative total of those specified debt securities outstanding; and

(ii) The debenture or debenture stock ranks as a fixed or floating charge over the assets and undertaking of the issuer or other person, as the case may be, *pari passu* with any other secured debenture stock issued by the issuer or that person subject only to a priority in favour of—

(A) A debenture held by a trading bank named in the First Schedule to the Reserve Bank of New Zealand Act 1964; and

(B) Fixed charges over specific items of property; and

(iii) That the offering of the specified debt securities upon the terms and conditions specified in this clause has been agreed to by any trustee for debenture holders of the issuer or other person, as the case may be, in accordance with the terms and conditions of any trust deed requiring such consent; or

(b) That—

(i) The ordinary shares of the issuer are listed or have been accepted for listing subject to completion of allotment procedures, on the New Zealand Stock Exchange; and

(ii) The issuer has appointed a company to act as trustee on behalf of the holders of the specified debt securities on terms which confer on that company the right to enforce against the issuer, on behalf of the holders of those securities, the rights attaching to those securities and otherwise to act on behalf of the holders of those securities and as their trustee; and

(iii) The issuer has entered into an agreement with the company for the benefit of the holders of the specified debt securities enforceable by the company on behalf of the holders of those securities on terms which require that the issuer is not to give, or permit to arise, any security interest over, or in respect of, the assets of the issuer having priority over the claims of the unsecured creditors on a winding-up, other than security interests which—

(A) Secure indebtedness of the issuer not exceeding in aggregate amount 25 percent of the total indebtedness of the issuer; or

(B) Are imposed by law; or

(C) Are imposed by the general conditions of sale of a supplier if the obligation thereby secured is or will be duly discharged in the course of trade; and

(iv) That the offering of the specified debt securities upon the terms and conditions specified in this clause has been agreed to by any trustee for debenture holders of the issuer in accordance with the terms and conditions of any trust deed requiring such consent.

(3) The exemption granted by subclause (1) of this clause is subject to the following further conditions, namely:

(a) That the company is actively managed:

(b) That within 10 days after the completion of each month the issuer makes a written report to the company of the total amount of specified debt securities outstanding in that month:

- (c) That the holders of the specified debt securities receive copies of all reports and other information required to be supplied to shareholders of their employer:
- (d) That the auditors of the issuer provide a written report to the issuer and the company at intervals of not less than 12 months that the terms and conditions specified in paragraph (a) or paragraph (b) of subclause (2) of this clause, as the case may be, and subclause (3) of this clause, have been complied with.

4. Revocation—The Securities Act (Staff Savings) Exemption Notice 1985* is hereby revoked.

Dated at Wellington this 16th day of September 1986.

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

[L.S.]

P. D. MCKENZIE,
Member.

* S.R. 1985/167

EXPLANATORY NOTE

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

This notice extends the exemption granted by the Securities Act (Staff Savings) Exemption Notice 1985 in respect of offers of debt securities in the form of deposits under staff savings schemes from compliance with certain provisions of the Securities Act 1978.

Issued under the authority of the Regulations Act 1936.
Date of notification in *Gazette*: 18 September 1986.
This notice is administered in the Securities Commission.