



**SECURITIES (SUBSTANTIAL SECURITY HOLDERS)
REGULATIONS 1997**

MICHAEL HARDIE BOYS, Governor-General

ORDER IN COUNCIL

At Wellington this 9th day of June 1997

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Securities Act 1978 and the Securities Amendment Act 1988, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, and in accordance with a recommendation of the Securities Commission, makes the following regulations.

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REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Securities (Substantial Security Holders) Regulations 1997.

(2) These regulations come into force on 1 August 1997.

2. Interpretation—In these regulations, unless the context otherwise requires,—

“The Act” means the Securities Amendment Act 1988:

“Address”,—

(a) In relation to an individual, means the address of his or her last known or usual place of residence or business in New Zealand or, if no such address exists, means the address of his or her last known or usual place of business outside New Zealand:

(b) In relation to a company within the meaning of the Companies Act 1993, means the address of the company’s registered office:

(c) In relation to any other corporate body, means the address of its principal office or principal place of business in New Zealand or, if no such address exists, means the address of its principal office or principal place of business outside New Zealand:

“Class” means a class of shares having attached to them identical rights, privileges, limitations, and conditions:

“Relevant documentation” has the meaning given in regulations 13 and 14.

3. Meaning of “beneficial relevant interest” and “non-beneficial relevant interest”—In these regulations,—

(a) A person has a beneficial relevant interest in a voting security if that person is a beneficial owner of the security:

(b) A person has a non-beneficial relevant interest in a voting security if that person has a relevant interest in the security other than by reason of being a beneficial owner of the security.

4. Form of substantial security holder notices—Every notice—

(a) Under section 20 (3) of the Act (notice that a person has become a substantial security holder in a public issuer); or

(b) Under section 21 (1) of the Act (notice of a change in total number of a public issuer’s voting securities in which a substantial security holder has a relevant interest); or

(c) Under section 21 (3) of the Act (notice that a person has ceased to be a substantial security holder in a public issuer); or

(d) Under section 22 of the Act (notice of a change in the nature of any relevant interest held by a substantial security holder in a public issuer's voting securities),—
must be in form 1 in the Schedule.

5. Information required to be given in form 1—(1) Every notice in form 1 must contain—

- (a) The information specified in that form; and
- (b) The information required by regulations 6 to 14.
- (2) The notes to form 1 are not part of the notice.
- (3) Part of the form may be omitted if the information in that part does not apply.

6. Total relevant interests—Every notice in form 1 must contain the following information:

- (a) The total number of the public issuer's voting securities in which a relevant interest is held:
- (b) The total number of voting securities issued by the public issuer:
- (c) The total percentage of the public issuer's voting securities in which a relevant interest is held.

7. Class totals—Every notice in form 1 must contain the following information in respect of each class of the public issuer's voting securities in which a relevant interest is held:

- (a) The name of the class:
- (b) The number of votes attached to each voting security in that class:
- (c) The number of voting securities of that class in which a beneficial relevant interest is held:
- (d) The number of voting securities of that class in which a non-beneficial relevant interest is held:
- (e) The percentage of the voting securities of that class in which a beneficial relevant interest is held:
- (f) The percentage of the voting securities of that class in which a beneficial relevant interest was held as at the date of the last notice given to the public issuer:
- (g) The percentage of the voting securities of that class in which a non-beneficial relevant interest is held:
- (h) The percentage of the voting securities of that class in which a non-beneficial relevant interest was held as at the date of the last notice given to the public issuer.

8. Different class totals to be disclosed separately—(1) If a relevant interest is held in the voting securities of more than one class, the information prescribed by regulation 7 must be disclosed for each class in a separate table and annexed to form 1.

- (2) This applies even if there has been no change in respect of the class.

9. Relevant interests in respect of which details are required to be given—Every notice in form 1 must contain details, as required by regulation 10, of—

- (a) In the case of a notice under section 20 (3) of the Act (notice that a person is a substantial security holder in a public issuer), every relevant interest of the substantial security holder in the public issuer's voting securities:

- (b) In the case of a notice under section 21 (1) of the Act (notice of a change in total number of a public issuer's voting securities in which a substantial security holder has a relevant interest), the relevant interest or interests affected by the transaction or transactions from which the change results:
- (c) In the case of a notice under section 21 (3) of the Act (notice that a person has ceased to be a substantial security holder), the relevant interest or interests affected by the transaction or transactions as a result of which the person ceased to be a substantial security holder:
- (d) In the case of a notice under section 22 of the Act (notice of a change in the nature of any relevant interest held by a substantial security holder in a public issuer's voting securities), the relevant interest or interests in respect of which there has been a change in nature.

10. Details that are required to be given in respect of relevant interests—(1) Every notice in form 1 must contain, in respect of each relevant interest referred to in regulation 9, the following details:

- (a) The name of the registered holder or holders of the voting securities, or the name of the person or persons who is or are intended to be the registered holder or holders once any transfers involved in the transactions giving rise to the notice have been registered:
 - (b) In the case of a non-beneficial relevant interest, the provision or provisions of section 5 of the Act under which the relevant interest arises:
 - (c) The date of the transaction under which the relevant interest was acquired or disposed of, or otherwise arose or ceased, or from which the change in number or nature of the relevant interest results, as the case may be:
 - (d) The number of voting securities affected by that transaction:
 - (e) The consideration (if any) for that transaction expressed in New Zealand dollars, including the value of benefits received or to be received (if any):
 - (f) A description of the nature of that transaction:
 - (g) The name (if known) of the other party or parties to that transaction (except in the case of a transaction on a stock exchange):
 - (h) The name of any other person or persons believed to have given, or to be intending to give, a notice under these regulations in relation to the securities to which the notice relates.
- (2) Subclauses (3) and (4) apply if a relevant interest was acquired or disposed of, or otherwise arose or ceased, under more than one transaction, or if the change in number or nature of the relevant interest results from more than one transaction.
- (3) The information prescribed by this regulation must be disclosed for each transaction and annexed to form 1.
- (4) However, information may be disclosed in aggregate for stock exchange transactions as follows:
- (a) Information prescribed by subclause (1) (c) may be expressed as the date of the beginning and the date of the end of the period over which the stock exchange transactions occurred:

- (b) Information prescribed by subclause (1) (d) and (1) (e) may be expressed as an aggregate number or amount for that period.

11. Two or more relevant interests to be disclosed separately—If the substantial security holder has 2 or more relevant interests in the same voting security, or in different voting securities, of the public issuer, the information prescribed by regulation 10 must be disclosed for each relevant interest, and annexed to form 1.

12. Documents required to accompany notice in case of non-beneficial relevant interests or change in nature of relevant interest—Every notice in form 1 must be accompanied by, or have annexed, relevant documentation if the notice discloses—

- (a) A relevant interest that arises, or a change in the total number of voting securities in which a relevant interest is held, other than by reason of the substantial security holder having, or ceasing to have, a beneficial relevant interest in any voting securities; or
- (b) A change in the nature of any relevant interest, including any amendments to relevant documentation in respect of a relevant interest.

13. Meaning of “relevant documentation”—In regulation 12, “relevant documentation” means—

- (a) Copies of every written contract, agreement, deed, or instrument; or
- (b) Copies of any written document recording the material terms of any oral agreement; or
- (c) If there are no such documents, a memorandum in writing specifying the material terms of any trust, agreement, arrangement, or understanding,—

from which the relevant interest arises, or the change results, or, in the case of a notice that discloses a change in the nature of any relevant interest, from which the change in the nature of any relevant interest results.

14. Exceptions for previously filed and stock exchange documentation—In regulation 12, “relevant documentation” does not include—

- (a) A document that has accompanied, or been annexed to, another notice given to the same person under Part II of the Act, if the current notice indicates the date of the other notice;
- (b) A document in respect of a stock exchange transaction.

15. Notices to be signed—Every notice in form 1 must be signed by or on behalf of the person giving the notice, unless it is filed by electronic means other than facsimile.

16. Manner in which notices to be given—(1) Every notice in form 1 must be—

- (a) Delivered to the address of the person to whom the notice is given; or
- (b) Given by facsimile; or
- (c) Filed by other electronic means approved or permitted by the public issuer (in the case of a notice given to a public issuer); or

(d) Filed by other electronic means approved by, or in accordance with the relevant rules of, the stock exchange (in the case of a notice given to a stock exchange).

(2) A notice given by facsimile is, in the absence of proof to the contrary, regarded as having been given if the facsimile machine generated a record of the transmission of the notice to the facsimile machine of the recipient.

(3) A notice filed by other electronic means is, in the absence of proof to the contrary, regarded as having been filed if an acknowledgment of receipt sent by the recipient of the notice and transmitted by electronic means has been received.

17. Acknowledgment of notices—An acknowledgment of a notice under section 23 (4) of the Act must be—

(a) Delivered, or sent by post, to the address of the person by whom the notice was given; or

(b) Given by facsimile; or

(c) Filed by other electronic means (except that this option is available only if the notice was filed in that manner).

18. Notices to registered holders requiring disclosure of relevant interests—Every notice under section 23 of the Act must be in form 2 in the Schedule or to like effect.

19. Notices to holders of relevant interests requiring disclosure of information—Every notice under section 29 of the Act must be in form 3 in the Schedule or to like effect.

20. Deviations from prescribed forms—Slight deviations from any form prescribed by these regulations, but to the same effect and not calculated to mislead, do not vitiate the notice given.

21. Prescribed fees—(1) The fee payable under section 25 (3) (b) of the Act for inspection of a file is \$10.

(2) The fee payable under section 25 (4) of the Act for a copy of a file, or a copy of a notice or other information filed in it, is \$1 for each page copied.

(3) The fees prescribed by this regulation are inclusive of goods and services tax.

22. Revocation—The Securities (Substantial Security Holders) Regulations 1989 (S.R. 1989/162) are consequentially revoked.

Regs. 4, 18, 19

SCHEDULE

FORMS

Form 1

Reg. 4

(Securities Amendment Act 1988)

Substantial Security Holder Notice

Tick the appropriate box(es)

- Notice that a person has become a substantial security holder (section 20 (3))
- Notice of a change in the number of voting securities in which a substantial security holder has a relevant interest (section 21 (1))

- Notice that a person has ceased to be a substantial security holder (section 21 (3))
- Notice of a change in the nature of relevant interest held by a substantial security holder (section 22)

1.
 Name of public issuer
 Name of substantial security holder
 Address of substantial security holder
 Contact name for queries Telephone number

2. Total number of voting securities of the public issuer in which a relevant interest is held Total number of voting securities issued by public issuer Total percentage %
 Class of voting securities Number of votes attached to each voting security in that class

3. **BENEFICIAL RELEVANT INTERESTS**
 Number of voting securities of the class in which a beneficial relevant interest is held %
 Percentage held at date of THIS notice %
 Percentage held at date of LAST notice (if any)

NON-BENEFICIAL RELEVANT INTERESTS
 Number of voting securities of the class in which a non-beneficial relevant interest is held %
 Percentage held at date of THIS notice %
 Percentage held at date of LAST notice (if any)

4. **DETAILS OF EACH RELEVANT INTEREST**

5.
 Name(s) of registered holder(s)
 6.
 Date(s) of transaction(s)
 Number of voting securities Consideration (expressed in NZ\$)

4. **DETAILS OF EACH RELEVANT INTEREST**

5.
 Name(s) of registered holder(s)
 Provision(s) of section 5 Date(s) of transaction(s)
 Number of voting securities Consideration (expressed in NZ\$)

8. Description of nature of transaction(s), including the name(s) of any other party to the transaction(s) (if known)
 Relevant documentation—forms part of this notice
 is not required to be filed.
 has already been filed with the notice dated

9.
 Number of pages that accompany this notice (if any) Date of last notice (if any) Name(s) of any other person(s) who is (are) believed to have given, or to be intending to give, a substantial security holder notice in relation to the securities to which this notice relates

I declare that to the best of my knowledge and belief the information contained in this notice is correct and that I am duly authorised to give this notice.

Signature (unless filed by electronic means other than facsimile) Full name Date

SCHEDULE—continued

FORMS—continued

Form 1—continued

NOTES

These notes do not form part of the notice. Every notice must contain the information specified in the form and the information required by regulations 6 to 14.

1. **Stock Exchange**—A copy of this notice must be sent to the New Zealand Stock Exchange, or any other stock exchange registered under the Sharebrokers Act 1908, on which the securities of the public issuer are listed at the same time as it is sent to the public issuer.
2. **Overall totals**—Give—
 - (a) The total number of the public issuer's voting securities in which a relevant interest is held;
 - (b) The total number of voting securities issued by the public issuer to security holders of the total number of voting securities issued by the public issuer should be used unless the person giving the notice knows that that number is not correct and knows the correct number;
 - (c) The total percentage in which a relevant interest is held.
3. **Beneficial/Non-beneficial relevant interests**—A person has a beneficial relevant interest in a voting security if that person is a beneficial owner of the security. A person has a non-beneficial relevant interest in a voting security if the person has a relevant interest in the security other than by reason of being a beneficial owner of the security.

Where a relevant interest has changed in nature from being a non-beneficial to a beneficial relevant interest (or vice versa), complete both columns to show the effect of the change in nature of the relevant interest.

Class—If a relevant interest is held in the voting securities of more than one class, fill out a separate table for each class, and annex it to the notice.
4. **Which relevant interests are to be disclosed**—Give details of the following relevant interests:
 - (a) In the case of a notice that a person has become a substantial security holder, every relevant interest;
 - (b) In the case of a notice of a change in total number of voting securities in which relevant interest is held, the relevant interest(s) affected by the transaction or transactions from which the change results;
 - (c) In the case of a notice that a person has ceased to be a substantial security holder, the relevant interest(s) affected by the transaction or transactions as a result of which the person ceased to be a substantial security holder;
 - (d) In the case of a notice of a change in the nature of a relevant interest, the relevant interest(s) in respect of which there has been a change in nature.
5. **Registered holders**—Give the name of the registered holder(s) of the voting securities, or the name of the person(s) who are intended to be the registered holder(s) once any transfers involved in the transactions giving rise to the notice have been registered.

If the substantial security holder has relevant interests in more than one registered holding, give details of each of those registered holdings, and annex it to the notice.
6. **Details of non-beneficial relevant interests**—In respect of each non-beneficial relevant interest required to be disclosed, give the provision(s) of section 5 of the Securities Amendment Act 1988 under which the relevant interest arises.
7. **Details of transactions**—In respect of each transaction pursuant to which the relevant interest was acquired or disposed of, or from which the change results, give—
 - (a) The date of the transaction pursuant to which the relevant interest was acquired or disposed of, or otherwise arose or ceased, or from which the change in number or nature results;
 - (b) The number of voting securities affected by that transaction;
 - (c) The consideration (if any), for that transaction, expressed in New Zealand dollars (including the value of benefits received or to be received (if any));
 - (d) A description of the nature of that transaction, including the names (if known) of the other party or parties to that transaction (unless it is a transaction on the stock exchange).
E.g. Listing on New Zealand Stock Exchange:
Joint venture with [name];
Sale on the New Zealand Stock Exchange;
Off-market purchase from [name];
Exercise of right of purchase under an option to acquire voting securities.

If a relevant interest was acquired or disposed of, or otherwise arose or ceased, from more than one transaction, or if the change in number or nature of the relevant interest results from more than one transaction, give the details for each transaction separately, and annex it to the notice.

However, give the details in aggregate for stock exchange transactions as follows:

 - (a) The date of the transaction may be expressed as the date of the beginning and the date of the end of the period over which the stock exchange transactions occurred;
 - (b) Information as to the number of voting securities and the consideration may be expressed as an aggregate number or amount for that period.

If the substantial security holder has 2 or more relevant interests in the same voting security, or in different voting securities, of the public issuer, the information prescribed by regulation 10 must be disclosed for each relevant interest, and annexed to form 1.
8. **Documents required to accompany notice in case of non-beneficial relevant interests or change in nature of relevant interest**—The notice must be accompanied by, or have annexed, relevant documentation if the notice discloses—
 - (a) A relevant interest that arises, or a change in the total number of voting securities in which a relevant interest is held, other than by reason of the substantial security holder having, or ceasing to have, a beneficial relevant interest in any voting securities; or
 - (b) A change in the nature of any relevant interest, including any amendments to relevant documentation in respect of a relevant interest.

"Relevant documentation" means—

 - (a) Copies of every written contract, agreement, deed, or instrument; or
 - (b) Copies of any written document recording the material terms of any oral agreement; or
 - (c) If there are no such documents, a memorandum in writing specifying the material terms of any trust, agreement, arrangement, or understanding,—

from which the relevant interest arises, or the change results, or, in the case of a notice that discloses a change in the nature of any relevant interest, from which the change in the nature of any relevant interest results.

It does not include a document that has accompanied, or been annexed to, another notice given to the same person under Part II of the Act, if the current notice indicates the date of the other notice.

Neither does it include a document in respect of a stock exchange transaction.
9. **Miscellaneous**—Give—
 - (a) The number of pages that accompany the notice (if any);
 - (b) The date of the last notice (if any) given to the public issuer in compliance with Part II of the Securities Amendment Act 1988 by the person(s) on whose behalf this notice is given;
 - (c) The names of any other person(s) who are believed also to have given, or to be intending to give, a notice under the regulations in relation to the securities to which the notice relates.

SCHEDULE—continued

FORMS—continued

Reg. 18

Form 2

(Securities Amendment Act 1988)

NOTICE REQUIRING DISCLOSURE OF RELEVANT INTERESTS

(To be given by a public issuer pursuant to section 28 of the Act for the purpose of requiring a person who is registered as the holder of voting securities to disclose relevant interests in those securities)

To: [Full name]

1. You are registered as the holder of voting securities in
[Name of public issuer].
2. Particulars of those voting securities are as follows:

Class of voting securities
Number of securities
3. You are required, pursuant to section 28 of the Securities Amendment Act 1988, to disclose—
 - (a) The name and address of every person who holds a relevant interest in those voting securities; and
 - (b) The nature of that interest.
4. To the extent that you are unable to supply any of that information in relation to a person holding a relevant interest, you are required, pursuant to section 28, to supply such other particulars as will, or are likely to, assist in identifying that person and the nature of that interest.
5. You are required to supply the information stated in clauses 3 and 4 above immediately in writing to—

..... [Name of public issuer]

..... [Address]

Dated at this day of 19.....

..... [Signature]

This notice is given on behalf of [Name of public issuer] by
..... [Name of person giving the notice], [Description],
who is duly authorised to give this notice.

SCHEDULE—continued

FORMS—continued

Form 3

Reg. 19

(Securities Amendment Act 1988)

NOTICE REQUIRING PERSON WHO IS BELIEVED TO HOLD A RELEVANT INTEREST IN PUBLIC ISSUER TO DISCLOSE INFORMATION

(To be given by a public issuer pursuant to section 29 of the Act for the purpose of requiring a person believed to have a relevant interest in voting securities to disclose information for the purpose of ascertaining who is, or may be, a substantial security holder)

To: [Full name]

1. [Name of public issuer] believes that you have, or may have, a relevant interest in its voting securities.
2. You are required, pursuant to section 29 of the Securities Amendment Act 1988, to supply information for the purpose of assisting [Name of public issuer] to ascertain who is, or may be, a substantial security holder.
3. Please supply the following information [To be specified by public issuer for the purpose stated in clause 2 above].
4. You are required to supply the information immediately in writing to—

..... [Name of public issuer]

..... [Address]

Dated at this day of 19.....

..... [Signature]

This notice is given on behalf of [Name of public issuer] by [Name of person giving the notice], [Description], who is duly authorised to give this notice.

MARIE SHROFF,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 1 August 1997, relate to the disclosure of interests of substantial security holders in public issuers.

The regulations prescribe—

- (a) The form of notices that are required under sections 20, 21, 22, 28, and 29 of the Securities Amendment Act 1988:
- (b) The information required to be contained in those notices:
- (c) The documents, certificates, and statements that are required to accompany or be annexed to those notices:
- (d) The manner in which those notices are to be given and acknowledged:
- (e) The fees payable under section 25 of the Securities Amendment Act 1988.

The regulations replace the Securities (Substantial Security Holders) Regulations 1989. The principal differences from the old regulations are that—

- (a) The new regulations prescribe just one multi-purpose form to be used by persons becoming substantial security holders, ceasing to be substantial security holders, and also where there is a change in number or nature of relevant interests. The previous regulations prescribed different forms for each event:
- (b) The new regulations are more flexible in terms of the electronic filing of notices.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 12 June 1997.

These regulations are administered in the Ministry of Commerce.