

**Reprint
as at 1 January 2009**



**Takeovers Code (Silver Fern Farms
Limited) Exemption Notice 2008**

(SR 2008/263)

Takeovers Code (Silver Fern Farms Limited) Exemption Notice 2008: expired,
on 1 January 2009, by clause 3.

Pursuant to section 45 of the Takeovers Act 1993, the Takeovers Panel gives the following notice (to which is appended a statement of reasons of the Takeovers Panel).

Contents

	Page
1 Title	2
2 Application	2
3 Expiry	2
4 Interpretation	2
5 Exemption from rule 7(d) of Code	3
6 Exemption from rule 16(b) of Code	3
7 Conditions of exemptions in clauses 5 and 6 relating to particulars to be contained in notice of meeting	3
8 Additional conditions of exemptions in clauses 5 and 6 relating to contents of notice of meeting	4

Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

This notice is administered by the Takeovers Panel.

9 Application of exemption in clause 5 5

Notice

1 Title

This notice is the Takeovers Code (Silver Fern Farms Limited) Exemption Notice 2008.

2 Application

This notice applies to acts or omissions occurring on or after 11 August 2008.

3 Expiry

This notice expires on the close of 31 December 2008.

4 Interpretation

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

Act means the Takeovers Act 1993

allotment means the allotment of voting securities to PGW resulting from the issue

Code means the Takeovers Code under the Act

current supplier has the same meaning as in the new constitution

issue means the proposed issue by SFF of voting securities to PGW pursuant to the approval of shareholders to be obtained at the meeting

meeting means the meeting of the shareholders of SFF that is to be held on or about 8 September 2008 to consider whether or not to approve, for the purposes of rule 7(d) of the Code, the allotment

new constitution means the constitution of SFF to be adopted by SFF shareholders at the meeting

notice of meeting means the notice of the meeting (including explanatory materials) that is to be sent to the shareholders of SFF in connection with the meeting

PGW means PGG Wrightson Limited

rebate shareholder means a holder of a rebate share as defined in the new constitution

record date means 11 August 2008

SFF means Silver Fern Farms Limited

total number of voting securities on issue after the allotment means the sum of the total voting securities on issue at the record date plus the total number of voting securities that are the subject of the allotment

voting security means a voting security in SFF.

- (2) In this notice, a reference to a person increasing voting control is a reference to the person becoming the holder or controller of an increased percentage of the voting rights in SFF.
- (3) Any term or expression that is defined in the Act or the Code and used, but not defined, in this notice has the same meaning as in the Act or the Code.

5 Exemption from rule 7(d) of Code

PGW is exempted from rule 7(d) of the Code in respect of any increase in PGW's voting control that results from the allotment to the extent that the notice of meeting does not comply with rule 16(b) of the Code.

6 Exemption from rule 16(b) of Code

SFF is exempted from rule 16(b) of the Code in respect of the notice of meeting.

7 Conditions of exemptions in clauses 5 and 6 relating to particulars to be contained in notice of meeting

- (1) The exemptions in clauses 5 and 6 are subject to the condition that the notice of meeting contains, or is accompanied by, the following particulars:
 - (a) the number of voting securities that could be allotted to PGW as a result of the allotment; and
 - (b) the maximum percentage that the number of voting securities referred to in paragraph (a) could bear to the total number of voting securities on issue after the allotment; and

- (c) the maximum percentage of the total number of voting securities on issue after the allotment that could be held or controlled by PGW after the allotment; and
 - (d) the maximum percentage of the total number of voting securities on issue after the allotment that could be held or controlled, in aggregate, by PGW and PGW's associates after the allotment; and
 - (e) the maximum percentage of the total voting rights in SFF that could be held or controlled by PGW after the allotment; and
 - (f) the maximum percentage of the total voting rights in SFF that could be held or controlled by PGW and PGW's associates after the allotment.
- (2) The exemptions in clauses 5 and 6 are subject to the additional condition that the numbers and percentages referred to in sub-clause (1) are calculated on the basis that—
- (a) no rebate shareholder who was a current supplier as at the record date ceases to be a current supplier before the allotment; and
 - (b) there is no other change to the total number of voting securities on issue between the record date and the allotment.

8 Additional conditions of exemptions in clauses 5 and 6 relating to contents of notice of meeting

The exemptions in clauses 5 and 6 are subject to the following additional conditions:

- (a) the notice of meeting also contains, or is accompanied by,—
 - (i) full particulars of the issue; and
 - (ii) a summary of the terms and conditions of the exemptions granted to PGW and SFF by this notice; and
- (b) the notice of meeting displays, in a prominent position, a disclaimer stating that, by exempting PGW from rule 7(d) of the Code and SFF from rule 16(b) of the Code, the Takeovers Panel is—

- (i) neither endorsing nor supporting the accuracy or reliability of the contents of the notice of meeting; and
- (ii) not implying it has a view on the merits of the issue; and
- (c) the form of the notice of meeting is approved by the Takeovers Panel.

9 Application of exemption in clause 5

The exemption in clause 5 does not apply—

- (a) to any allotment of voting securities resulting from the issue if, immediately after the allotment is completed, the total percentage of voting securities held or controlled by PGW is greater than the maximum percentage of the total number of voting securities on issue after the allotment that could be held or controlled by PGW as disclosed in the notice of meeting, as required by clause 7(1)(c):
- (b) to PGW if PGW increases its voting control, except as a result of the allotment, but this paragraph ceases to apply after the allotment:
- (c) if there is a change in control of PGW between the record date and the allotment.

Dated at Auckland this 20th day of August 2008.

The Common Seal of the Takeovers Panel was affixed in the presence of:

[Seal]

D O Jones,
Chairperson.

Statement of reasons

This notice applies to acts or omissions occurring on or after 11 August 2008 and expires on 31 December 2008.

The Takeovers Panel (the **Panel**) has granted exemptions to—

- PGG Wrightson Limited (**PGW**) from rule 7(d) of the Takeovers Code (the **Code**) in respect of the requirements for a notice of meeting under rule 16(b) of the Code; and
- Silver Fern Farms Limited (**SFF**) from rule 16(b) of the Code.

SFF has 2 classes of voting security on issue: supplier investment shares and rebate shares. Each of the supplier investment shares carries 1 vote on resolutions for the appointment of directors. Each of the rebate shares carries 1 vote on any resolution, subject to the holder (a **rebate shareholder**) being a current supplier as defined by SFF's constitution (a person who had supplied livestock to SFF under SFF's rebate supply method in the current or immediately preceding season).

It is proposed that PGW will be allotted a certain number of a new class of voting security in SFF: capital shares. Immediately following that allotment, the capital shares will confer 50% of the voting control in SFF on PGW. Accordingly, shareholder approval will be sought under rule 7(d) of the Code at a special meeting of shareholders to be held on or about 8 September 2008.

A record date of 11 August 2008 had been set for the meeting. Only those rebate shareholders who are current suppliers as at the record date will be entitled to attend and vote at the meeting. However, rebate shareholders who are not current suppliers as at the record date may supply livestock to SFF under its rebate supply method after that date. The voting rights attaching to those rebate shareholders' rebate shares would become exercisable and increase the number of voting securities in SFF.

Notice of the proposed special meeting cannot contain the percentage disclosures required by rule 16(b) of the Code. Those percentage disclosures would be calculated by reference to the number of voting securities on issue in SFF immediately after the allotment to PGW. This number would not be known with certainty until after the allotment because of the possibility that rebate shareholders who were

not current suppliers as at the record date would become current suppliers before the allotment.

As noted above, SFF intends to obtain shareholder approval, in accordance with the Code, for the potential allotment of capital shares to PGW. However, SFF cannot comply with rule 16(b) of the Code before completion of the issue, because it cannot state in the notice of meeting the exact percentage of voting securities in SFF that the number of voting securities being allotted to PGW represents. These details would be known only after the allotment has been completed. The Panel considers that it is appropriate and consistent with the objectives of the Code to grant the exemptions for the following reasons:

- it is impossible for the relevant percentages required by rule 16(b) to be stated in the notice of meeting as these percentages are dependant on the total number of voting securities on issue in SFF after the allotment. This number is uncertain due to the possibility that rebate shareholders who are not current suppliers may become current suppliers after the record date and their rebate shares may become voting securities before the allotment:
- all non-associated shareholders will have an opportunity to vote on the potential allotment of voting securities to PGW:
- if the non-associated shareholders approve the potential maximum allotment of voting securities to PGW, then, by implication, the shareholders also approve any lesser percentage of voting securities that may be allotted to PGW.

Contents

- 1 General
 - 2 Status of reprints
 - 3 How reprints are prepared
 - 4 Changes made under section 17C of the Acts and Regulations Publication Act 1989
 - 5 List of amendments incorporated in this reprint (most recent first)
-

Notes**1 General**

This is a reprint of the Takeovers Code (Silver Fern Farms Limited) Exemption Notice 2008. The reprint incorporates all the amendments to the notice as at 1 January 2009, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that have yet to come into force or that contain relevant transitional or savings provisions are also included, after the principal enactment, in chronological order.

2 Status of reprints

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 How reprints are prepared

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, *see*

<http://www.pco.parliament.govt.nz/legislation/reprints.shtml>
or Part 8 of the *Tables of Acts and Ordinances and Statutory Regulations, and Deemed Regulations in Force*.

4 *Changes made under section 17C of the Acts and Regulations Publication Act 1989*

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)
- position of the date of assent (it now appears on the front page of each Act)

- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 *List of amendments incorporated in this reprint (most recent first)*

Takeovers Code (Silver Fern Farms Limited) Exemption Notice 2008 (SR 2008/263): clause 3
