

**Reprint  
as at 1 June 2010**



**Takeovers Code (Te Kairanga  
Wines Limited) Exemption Notice  
2009**

(SR 2009/383)

Takeovers Code (Te Kairanga Wines Limited) Exemption Notice 2009: expired,  
on 1 June 2010, 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).

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**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.**

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## Notice

### 1 Title

This notice is the Takeovers Code (Te Kairanga Wines Limited) Exemption Notice 2009.

### 2 Application

This notice applies to acts or omissions occurring on or after 16 December 2009.

### 3 Expiry

This notice expires on the close of 31 May 2010.

### 4 Interpretation

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

**Act** means the Takeovers Act 1993

**Code** means the Takeovers Code under the Act

**Hubscher group** means the Peter Trust trustees, the Pamela Trust trustees, and Pamela Hubscher (taken together as a group)

**Hubscher placement** means the placement of 2 300 000 voting securities to the Hubscher group (or to any 1 or more members of that group) under a share subscription agreement dated 11 December 2009

**meeting** means the meeting of the shareholders of Te Kairanga Wines Limited that is to be held on or about 10 February 2010 to consider, among other things, whether to approve, for the purposes of rule 7(d) of the Code, the allotment of voting securities to the Peter Trust trustees, the Pamela Trust trustees,

and Pamela Hubscher under the rights issue and the Hubscher placement

**notice of meeting** means the notice of meeting to be sent to the shareholders of Te Kairanga Wines Limited in respect of the meeting

**other placements** means the proposed allotment by Te Kairanga Wines Limited of voting securities to persons that are not associates of any of the Peter Trust trustees, the Pamela Trust trustees, or Pamela Hubscher and that is to occur simultaneously with the Hubscher placement

**Pamela Hubscher** means Pamela Marjorie Hubscher in her personal capacity

**Pamela Trust trustees** means Peter Vernon Hubscher, Pamela Marjorie Hubscher, and James Halward Nash as trustees of the Pamela Hubscher Family Trust created by deed of trust dated 11 June 2004

**Peter Trust trustees** means Peter Vernon Hubscher, Pamela Marjorie Hubscher, and James Halward Nash as trustees of the Peter Hubscher Family Trust created by deed of trust dated 11 June 2004

**rights issue** means the 1-for-1 renounceable pro rata rights issue to be conducted by Te Kairanga Wines Limited under a prospectus to be registered on or about 11 February 2010

**voting security** means a voting security in Te Kairanga Wines Limited.

- (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 Te Kairanga Wines Limited.
- (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 in respect of rights issue and Hubscher placement**

Each of Peter Vernon Hubscher, Pamela Marjorie Hubscher, and James Halward Nash is exempted from rule 7(d) of the Code in respect of any increase in that person's voting control

as a result of any allotment of voting securities to that person under the rights issue and the Hubscher placement to the extent that rule 7(d) of the Code requires the notice of meeting to comply with rule 16(b)(ii) to (iv) of the Code.

**6 Exemption from rule 16(b)(ii) to (iv) of Code in respect of notice of meeting**

Te Kairanga Wines Limited is exempted from rule 16(b)(ii) to (iv) of the Code in respect of the notice of meeting.

**7 Condition of exemptions relating to disclosures in notice of meeting for each of Peter Trust trustees, Pamela Trust trustees, and Pamela Hubscher**

- (1) The exemptions in clauses 5 and 6 are subject to the condition that the notice of meeting must contain, or be accompanied by, the following particulars:
- (a) the maximum percentage of the total voting securities on issue that the number of voting securities to be allotted to each of the following under the rights issue and the Hubscher placement could represent after the allotments under the rights issue, the Hubscher placement, and the other placements:
    - (i) the Peter Trust trustees:
    - (ii) the Pamela Trust trustees:
    - (iii) Pamela Hubscher:
  - (b) the maximum percentage of the total voting securities on issue that could be held or controlled by each of the following after the allotment of voting securities under the rights issue, the Hubscher placement, and the other placements:
    - (i) the Peter Trust trustees:
    - (ii) the Pamela Trust trustees:
    - (iii) Pamela Hubscher:
  - (c) the maximum percentage of the total voting securities on issue that could be held or controlled by each of the following after the allotment of voting securities under the rights issue, the Hubscher placement, and the other placements:

- (i) the Peter Trust trustees and the associates of those trustees:
  - (ii) the Pamela Trust trustees and the associates of those trustees:
  - (iii) Pamela Hubscher and her associates.
- (2) The disclosure of percentages required in subclause (1)(c) must be made separately on both of the following bases:
  - (a) that the Peter Trust trustees, the Pamela Trust trustees, and Pamela Hubscher are associates of each other; and
  - (b) that the Peter Trust trustees, the Pamela Trust trustees, and Pamela Hubscher are not associates of each other.

## **8 Condition of exemptions relating to disclosures in notice of meeting for Hubscher group**

The exemptions in clauses 5 and 6 are subject to the condition that the notice of meeting must contain, or be accompanied by, the following particulars:

- (a) the maximum percentage of the total voting securities on issue that the number of voting securities to be allotted to the Hubscher group under the rights issue and the Hubscher placement could represent after the allotments under the rights issue, the Hubscher placements, and the other placements:
- (b) the maximum percentage of the total voting securities on issue that could be held or controlled by the Hubscher group after the allotment of voting securities under the rights issue, the Hubscher placement, and the other placements:
- (c) the maximum percentage of the total voting securities on issue that could be held or controlled by the Hubscher group and the associates of any of the Peter Trust trustees, the Pamela Trust trustees, or Pamela Hubscher after the allotment of voting securities under the rights issue, the Hubscher placement, and the other placements.

## **9 Further notice of meeting conditions**

The exemptions in clauses 5 and 6 are subject to the further conditions that—

- (a) the notice of meeting must contain, or be accompanied by,—
  - (i) full particulars of the rights issue and the Hubscher placement; and
  - (ii) a summary of the terms and conditions of the exemptions granted under this notice; and
- (b) the notice of meeting must display, in a prominent position, a disclaimer stating that by exempting Peter Vernon Hubscher, Pamela Marjorie Hubscher, and James Halward Nash from rule 7(d) of the Code, and Te Kairanga Wines Limited from rule 16(b)(ii) to (iv) of the Code, the Panel is—
  - (i) neither endorsing nor supporting the accuracy or reliability of the contents of the notice of meeting; and
  - (ii) not implying that it has a view on the merits of the proposed issue of voting securities to Peter Vernon Hubscher, Pamela Marjorie Hubscher, and James Halward Nash under the rights issue and the Hubscher placement; and
- (c) the form of the notice of meeting must be approved by the Panel.

**10 Restrictions on other acquisitions or increases in control greater than disclosed maximum**

The exemption in clause 5 does not apply—

- (a) if there is an increase in the voting control of Peter Vernon Hubscher, Pamela Marjorie Hubscher, or James Halward Nash, except as a result of an allotment under the rights issue or the Hubscher placement, before the completion of the rights issue, the Hubscher placement, and the other placements; or
- (b) to an increase in the voting control of Peter Vernon Hubscher, Pamela Marjorie Hubscher, or James Halward Nash if, immediately after the completion of the allotment of voting securities under the rights issue, the Hubscher placement, and the other placements, the total percentage of voting securities held or controlled by the Hubscher group is greater than the maximum percent-

age of voting securities that could be held or controlled  
by the Hubscher group as disclosed under clause 8(b).

Dated at Wellington this 8th day of December 2009.

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

[Seal]

D O Jones,  
Chairperson.

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### **Statement of reasons**

This notice applies to acts or omissions occurring on or after 16 December 2009 and expires on 31 May 2010.

The Takeovers Panel (the **Panel**) has granted the following exemptions in respect of a rights issue to be conducted by Te Kairanga Wines Limited (**TKW**) and a placement of shares in that company:

- an exemption from rule 7(d) of the Takeovers Code (the **Code**) for certain interests associated with Peter Vernon Hubscher to the extent that that rule requires the notice of meeting to comply with the disclosure requirements of rule 16(b)(ii) to (iv) of the Code; and
- an exemption from rule 16(b)(ii) to (iv) of the Code for TKW in respect of the notice of meeting.

Interests associated with Peter Vernon Hubscher (the **Hubscher group**) collectively hold or control approximately 17.56% of the voting rights in TKW. TKW wishes to conduct a pro rata renounceable rights issue (the **rights issue**) and the Hubscher group have agreed to take up their entitlement under the rights issue. It has also been agreed that the Hubscher group will subscribe for a further 2 300 000 shares in TKW (the **Hubscher placement**). Other placements to third parties not associated with the Hubscher group are also proposed to occur simultaneously.

The allotment to the Hubscher group under the rights issue and the Hubscher placement will result in the collective voting control of the Hubscher group increasing above 20%. This will trigger rule 6(1) of



the Code. Shareholder approval for that allotment will therefore be sought under rule 7(d) of the Code.

However, the exact percentages required to be disclosed in the notice of meeting by rule 16(b)(ii) to (iv) of the Code cannot be disclosed because those percentages depend on the overall level of shareholder participation in the rights issue. The Panel has granted exemptions that provide for the substitution of exact percentage disclosures with disclosure of potential maxima.

The Panel considers that it is appropriate and consistent with the objectives of the Code to grant the exemptions because—

- it is impossible for the actual percentages specified by rule 16(b) to be stated in the notice of meeting because those percentages are dependent on a number of factors that will not be known with any certainty until after the notice of meeting is prepared; and
- all non-associated shareholders will have an opportunity to vote on the potential allotment of voting securities to the Hubscher group as a result of the rights issue and the Hubscher placement; and
- if the non-associated shareholders approve the potential maximum allotment of voting securities to the Hubscher group then, by implication, the shareholders also approve any lesser percentage of voting securities that may be allotted to the Hubscher group under the rights issue and the Hubscher placement.

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**Notes****1 General**

This is a reprint of the Takeovers Code (Te Kairanga Wines Limited) Exemption Notice 2009. The reprint incorporates all the amendments to the notice as at 1 June 2010, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, see <http://www.pco.parliament.govt.nz/reprints/>.

**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/editorial-conventions/> or Part 8 of the *Tables of New Zealand 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 (Te Kairanga Wines Limited) Exemption Notice 2009  
(SR 2009/383): clause 3

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