Reprint
as at 7 May 1993

Energy Companies (Eastland Energy Limited) Vesting Order 1993

(SR 1993/119)

Catherine A Tizard, Governor-General

Order in Council

At Wellington this 3rd day of May 1993

Present:
The Right Hon D C McKinnon presiding in Council

Pursuant to section 47(1) of the Energy Companies Act 1992, Her Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, and on the recommendation of the Minister of Energy, hereby makes the following order.

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 order is administered by the Ministry of Economic Development.

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Order

1 Title

This order may be cited as the Energy Companies (Eastland Energy Limited) Vesting Order 1993.

2 Interpretation

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

the Act means the Energy Companies Act 1992

the Board means the Poverty Bay Electric Power Board

the company means Eastland Energy Limited

the Deed of Loan and Subordination means the deed referred to by that name in the establishment plan approved by the Minister in respect of the Board on 25 March 1993

resulting benefit means the advantage to the company of the debt securities referred to in clause 6 remaining interest free, being the amount that would be payable in interest in a financial year if the securities were subject to interest at the average interest rate charged by the company's bankers during that year in respect of fully secured commercial loans to favoured customers

specified objectives means paying for or subsidising the installation or maintenance of electricity reticulation or the supply of electricity in areas that, at the close of 6 May 1993, form part of the district of the Gisborne District Council in cases where the trustees of the Trust, after taking such advice as they think fit, and having regard to the cost of supplying electricity to those areas, are of the opinion that the installa-

tion or maintenance of electricity reticulation or the supply of electricity by the company will not provide an acceptable commercial return to the company except at a cost to the consumers in those areas that is excessive having regard to the amounts charged to the majority of consumers who are connected to the company's electricity distribution system and who have similar electricity consumption load profiles

the Trust means the Eastland Energy Community Trust, being the trust referred to by that name in the establishment plan approved by the Minister in respect of the Board on 25 March 1993.

(2) Expressions not defined in this order but defined in the Act have, in this order, the meanings so defined.

3 Appointment of date for vesting of undertaking of Board in successor company

7 May 1993 is hereby appointed as the date on which the undertaking of the Board shall vest in the company.

4 Shares held by Board in company

On 7 May 1993, all of the shares held by the Board in the company at the close of 6 May 1993 shall, by virtue of section 47(1)(b) of the Act, vest as follows in the following persons in their capacity as nominees on behalf of the Trust:

(a) 2 in Robert Stanley Briant:
(b) 2 in Philip Sellwood Barnett:
(c) 2 in Alan Barry Mackintosh:
(d) 2 in Donald William Briant:
(e) 2 in David John McLean:
(f) 1 in Alistair Hepburn Taylor:
(g) 1 in Michael Andrew Costello.

5 Equity securities to be issued by company

(1) The equity securities that shall be issued by the company consequent upon the vesting in it of the undertaking of the Board shall be 10 000 000 fully paid up ordinary shares of $1 each on the terms specified in the articles of association of the company.

(2) The equity securities referred to in subclause (1) shall be issued to the following persons jointly in their capacity as trustees of the Trust:

(a) Ingrid Nea Collins:

(b) Kevin Hugh Lynch:

(c) Ian James Miller:

(d) Geoffrey Keenan Musgrave:

(e) Joanmary Pollock:

(f) Jeremy Kenneth Williams.

(3) The equity securities referred to in subclause (1) shall be issued on 7 May 1993.

6 Debt securities to be issued by company

(1) The debt securities that shall be issued by the company consequent upon the vesting in it of the undertaking of the Board shall be 40 subordinated debentures of $250,000 each issued at par.

(2) The debentures referred to in subclause (1) shall be issued on the following terms:

(a) subject to paragraphs (b) and (c), the debentures shall be redeemed at par on presentation of the relevant certificates for cancellation:

(b) the debenture holders shall not demand repayment of the whole or any part of the amount for the time being owing under the debentures unless the company has made default in the observance of any of its obligations under the terms of the debentures:

(c) the debenture holders may not require the company to repay in cash any part of the amount for the time being owing under the debentures unless written consent of all secured creditors of the company at the time any demand is made is obtained to such repayment in cash:

(d) until redemption of the debentures, no interest shall be payable on the debentures unless the company is in breach of its obligation to repay all or any part of the amount for the time being owing under the debentures, in which case interest shall be payable and calculated each year at 3% above the average interest rate charged

by the company's bankers during that year in respect of fully secured commercial loans to favoured customers:

(e) the company may elect to redeem the debentures by converting them into interest-bearing subordinated debentures, in which case interest on those debentures shall be calculated in each year on the average interest rate charged by the company's bankers during that year in respect of fully secured commercial loans to favoured customers:

(f) subject to paragraph (g), the debenture holders may demand partial repayment of the amount for the time being owing under the debentures where they are of the opinion that the company has failed, in any one financial year, to spend on specified objectives an amount equal to the resulting benefit for that year:

(g) demands for partial repayment referred to in paragraph (f) shall only be made in multiples of $250,000:

(h) the debenture holders may demand full repayment of the amount for the time being owing under the debentures where they are of the opinion that the company has failed, for 3 successive financial years, to spend on specified objectives an amount equal to the resulting benefit for those years:

(i) the company shall not be liable to repay any of the amount for the time being owing under the debentures until the expiry of 12 months from the receipt of the notice of demand:

(j) in giving notice of demand for redemption of the debentures, the debenture holders shall indicate their preference as to the manner of repayment:

(k) within 9 months of receipt of the notice of demand referred to in paragraph (j), the company shall advise the debenture holders of the manner of repayment:

(l) the company shall have the right at any time, on giving not less than 3 months' notice in writing to the debenture holders of its intention to do so, to convert or redeem all or any of the subordinated debentures as follows:

(i) into shares in the company; or

(ii) subject to obtaining the prior written consent of all secured creditors of the company, into cash; or

(iii) into interest-bearing subordinated debentures that are repayable on demand; or

(iv) into any combination of the above:

(m) in the event of the debentures being converted into $1 ordinary shares in the company, such shares shall rank *pari passu* with all other $1 ordinary shares issued by the company:

(n) the debentures shall be subordinated to all secured and unsecured creditors of the company, who shall be entitled to repayment before the holders of the debentures, but shall rank ahead of shareholders in the event of winding up:

(o) the debenture holders shall not be personally liable in any respect in connection with the Deed of Loan and Subordination:

(p) the company may enter into any arrangements or agreements with its secured creditors as it thinks fit without notice to the debenture holders:

(q) the debenture holders shall not be entitled to set off any amounts held to the credit of the company against the subordinated debentures:

(r) in the event of a winding up of the company, secured and unsecured creditors of the company shall rank before the debenture holders, who shall rank before shareholders:

(s) the debentures shall be subject to the articles of association of the company:

(t) the debentures shall be transferable upon notice being given to the company:

(u) the company shall be entitled to treat the registered holder of each debenture as the owner of it for all purposes.

(3) The debentures referred to in subclause (1) shall be issued to the following persons jointly in their capacity as trustees of the Trust:

(a) Ingrid Nea Collins:

(b) Kevin Hugh Lynch:
(c) Ian James Miller:
(d) Geoffrey Keenan Musgrave:
(e) Joanmary Pollock:
(f) Jeremy Kenneth Williams.

(4) The debentures referred to in subclause (1) shall be issued on 7 May 1993.

Marie Shroff,
Clerk of the Executive Council.

Explanatory note

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

This order is made pursuant to section 47(1) of the Energy Companies Act 1992. The order appoints 7 May 1993 as the date on which the energy undertaking of the Poverty Bay Electric Power Board shall vest in its successor company, Eastland Energy Limited. The order—

(a) provides for the vesting of the shares held by the Board in the company by virtue of section 47(1)(b) of the Act; and
(b) specifies the equity securities and debt securities that shall be issued by the company consequent upon the vesting in it of the undertaking of the Board; and
(c) specifies the persons to whom those equity securities and debt securities shall be issued.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 6 May 1993.

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Notes

1 General

This is a reprint of the Energy Companies (Eastland Energy Limited) Vesting Order 1993. The reprint incorporates all the amendments to the order as at 7 May 1993, 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)

Wellington, New Zealand:
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