



Securities Act (Property for Industry Limited) Exemption Notice 2004

Pursuant to the Securities Act 1978, the Securities Commission gives the following notice (to which is appended a statement of reasons of the Securities Commission).

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Notice

1 Title

This notice is the Securities Act (Property for Industry Limited) Exemption Notice 2004.

2 Commencement

This notice comes into force on the day after the date of its notification in the *Gazette*.

3 Expiry

This notice expires on the close of 28 February 2008.

4 Interpretation

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

Act means the Securities Act 1978

PFIL means Property for Industry Limited

Regulations means the Securities Regulations 1983

share purchase plan means a share purchase plan that complies with clause 5

specified securities means equity securities that are to be—

- (a) issued by PFIL under a share purchase plan to existing security holders; and
 - (b) listed on a securities market operated by New Zealand Exchange Ltd.
- (2) Any term or expression that is defined in the Act or the Regulations and used, but not defined, in this notice has the same meaning as in the Act or the Regulations.

5 Requirements for share purchase plan

For the purposes of this notice, a share purchase plan must comply with the following requirements:

- (a) the right to subscribe for the specified securities must be offered to all security holders holding equity securities of the same class as the specified securities, except a security holder in a jurisdiction outside New Zealand to whom the offer to subscribe cannot be extended because of legal restrictions in that jurisdiction; and
- (b) the right to subscribe for the specified securities must be offered on the same terms and conditions to all the security holders to whom the offer is made; and
- (c) the right to subscribe for the specified securities must not be renounceable; and
- (d) the specified securities issued under the share purchase plan to security holders of the same class must enjoy the same rights—
 - (i) as each other; and
 - (ii) as the equity securities that qualify a security holder to subscribe for the specified securities; and
- (e) the issue price of the specified securities must be less than the average market price of PFIL's equity securities during a period specified in the share purchase plan that falls within the period of 30 days immediately before either—
 - (i) the date of the offer to subscribe for the specified securities; or
 - (ii) the date of the issue of the specified securities; and

- (f) the issue price of the specified securities must be fixed and publicly notified before allotment of those securities; and
- (g) in any 12-month period, the total issue price of the specified securities issued to a security holder must not be more than \$5,000.

6 Exemption from sections 37 and 37A of Act and Regulations (except regulation 8)

PFIL is exempted from sections 37 and 37A of the Act and the Regulations (except regulation 8) in respect of the specified securities.

7 Conditions of exemption in clause 6

- (1) The exemption in clause 6 is subject to the condition that a person who subscribes for specified securities under a share plan must, before subscribing, have received a document that—
 - (a) is signed by the directors of PFIL; and
 - (b) contains the offer to subscribe for specified securities under the share plan; and
 - (c) describes the procedure for fixing the subscription price for the specified securities; and
 - (d) states when the subscription price will be fixed; and
 - (e) describes when and how payment of subscription monies is to be made; and
 - (f) describes the relationship between the subscription price and the market price of the specified securities; and
 - (g) warns that the market price may change between the date of the offer and the date when the specified securities are allotted, and describes the effect this would have on the price or value of the specified securities that a subscriber would receive; and
 - (h) states that a subscriber may obtain PFIL's most recent annual report and financial statements from PFIL free of charge.
- (2) The exemption in clause 6 is subject to the further conditions that, as soon as practicable after the subscription price has been fixed, PFIL must publish—
 - (a) the subscription price; and

- (b) a statement (which must accompany publication of the subscription price) signed by PFIL's directors certifying that when the subscription price was fixed PFIL had no information not publicly available that would, or would be likely to, have a material effect on the realisable price of the specified securities if the information were publicly available.
- (3) The exemption in clause 6 is subject to the further condition that PFIL must not allot the specified securities if, when the subscription price was fixed, PFIL had information not publicly available that would, or would be likely to, have a material effect on the realisable price of the specified securities if the information were publicly available.

Dated at Wellington this 25th day of May 2004.

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

[L.S.]

C. A. N. Beyer,
Member.

Statement of reasons

This notice comes into force on the day after the date of its notification in the *Gazette* and expires on 28 February 2008.

The notice applies to the offer of equity securities by Property for Industry Limited (PFIL) under a qualifying share purchase plan. It exempts PFIL, subject to conditions, from sections 37 and 37A of the Securities Act 1978 and from the Securities Regulations 1983 (other than regulation 8). One of the conditions of the exemption is that PFIL must provide investors with an offer document that contains details of the share purchase plan.

The Securities Commission considers that it is appropriate to grant the exemption because—

- the exemption allows PFIL to undertake limited fund-raising from existing shareholders. The exemption will reduce compliance costs for PFIL and the offer will allow the shareholders to purchase shares at a discounted price:
- the exemption is limited in the amount that can be raised in any year, so that any significant fund-raising will require full offer documents:
- the conditions of exemption require that investors receive certain important information about the offer. As offers under the exemption can be made only to existing shareholders, and as PFIL is subject to the continuous disclosure requirements of the Securities Markets Act 1988 and the NZX Listing Rules, investors will have access to key relevant information on which to make their investment decision.

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

Date of notification in *Gazette*: 27 May 2004.

This notice is administered by the Securities Commission.
