



## Takeovers Code (Wrightson Limited) Exemption Notice 2005

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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### Notice

#### 1 Title

This notice is the Takeovers Code (Wrightson Limited) Exemption Notice 2005.

#### 2 Application

This notice applies to acts or omissions occurring on or after 6 January 2005.

#### 3 Interpretation

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

**Act** means the Takeovers Act 1993

**cash alternative** means the cash offer of \$4.70 per ordinary share in Williams & Kettle to be made by Wrightson under the offer (if applicable, as varied from time to time in accordance with the Code)

**Code** means the Takeovers Code approved by the Takeovers Code Approval Order 2000 (SR 2000/210)

**combined scrip and cash alternative** means the scrip and cash offer, of 1 ordinary share in Wrightson and \$2.70 in cash,

for each ordinary share in Williams & Kettle to be made by Wrightson under the offer (if applicable, as varied from time to time in accordance with the Code)

**foreign shareholder** means a shareholder in Williams & Kettle whose address on Williams & Kettle's share register is not in New Zealand or the United Kingdom

**NZX** means New Zealand Exchange Limited

**offer** means a full offer to be made by Wrightson in accordance with the offer documents for all of the equity securities in Williams & Kettle, which includes the cash alternative and the combined scrip and cash alternative

**offer documents** means the offer document in, or substantially in all material respects in, the form attached to the takeover notice filed on 6 January 2005 and the combined prospectus and investment statement registered on 24 December 2004 in respect of the offer

**Williams & Kettle** means Williams & Kettle Limited

**Wrightson** means Wrightson Limited.

- (2) 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.

#### **4 Exemption from rule 20 of Code in respect of foreign shareholders**

Wrightson is exempted from rule 20 of the Code to the extent that the offer relates to foreign shareholders.

#### **5 Conditions of exemption**

The exemption in clause 4 is subject to the conditions that—

- (a) Wrightson appoints a person to act as nominee for the offer who—
- (i) is designated as an NZX Firm by NZX; and
  - (ii) is not, to the best of Wrightson's knowledge, under investigation by the Securities Commission or NZX; and

- (b) in a manner consistent with the terms of the offer, Wrightson allots to the nominee the shares in Wrightson that would otherwise be allotted to foreign shareholders who accept the combined scrip and cash alternative; and
- (c) Wrightson uses its best endeavours to ensure that the nominee, as soon as is reasonably practicable and in a manner consistent with the terms of the offer relating to payment of consideration, sells the Wrightson shares allotted to it under paragraph (b); and
- (d) Wrightson uses its best endeavours to ensure that the nominee, as soon as reasonably practicable and in a manner consistent with the terms of the offer relating to the payment of consideration, pays to each foreign shareholder the relevant share of the proceeds from the sale of the Wrightson shares under paragraph (c), net of any applicable brokerage costs and taxes; and
- (e) Wrightson indemnifies each foreign shareholder against any costs or losses suffered as a result of any failure by the nominee to perform its obligations in a proper manner.

Dated at Wellington this 21st day of January 2005.

[L.S.]

D. J. Quigg,  
Member.

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### Statement of reasons

This notice applies to acts and omissions occurring on or after 6 January 2005. It exempts Wrightson Limited (**Wrightson**), subject to conditions, from rule 20 of the Takeovers Code (the **Code**) in respect of an offer to be made by Wrightson for the equity securities in Williams & Kettle Limited (**Williams & Kettle**) to the extent that the offer relates to shareholders resident outside New Zealand and the United Kingdom. Those foreign shareholders who accept a combination of scrip and cash as consideration will be precluded from actually taking up shares in Wrightson and will receive cash only.

The Takeovers Panel considers that it is appropriate to grant the exemption for the following reasons:

- it is not practicable for Wrightson to make an offer to all of the Williams & Kettle shareholders on the same terms, as required by rule 20 of the Code, because of the costs of complying with the securities laws that apply in various jurisdictions;
- the conditions of the exemption require that the foreign shareholders in question are in effect offered consideration that is equivalent to that offered to shareholders in New Zealand and the United Kingdom, and accordingly they will not be disadvantaged by not being able to take up shares in Wrightson.

The Takeovers Panel considers that the exemption from rule 20 is consistent with the objectives of the Code because—

- the exemption is consistent with the principle of providing equal consideration to all security holders of the same class, while recognising the unreasonable costs of having to comply with the securities laws that apply in various jurisdictions in circumstances in which securities are offered as consideration and security holders have addresses outside New Zealand and the United Kingdom; and
- it is important for competition for the control of code companies that offerors are not precluded from offering securities as consideration in takeover transactions.

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Issued under the authority of the Acts and Regulations Publication Act 1989.  
Date of notification in *Gazette*: 27 January 2005.  
This notice is administered by the Takeovers Panel.

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