SECURITIES ACT (NEW ZEALAND LOCOMOTIVE ENGINEERS' SUPERANNUATION FUND) EXEMPTION NOTICE 1999

PURSUANT to the Securities Act 1978, the Securities Commission gives the following notice.

ANALYSIS

NOTICE

1. Title, commencement, and expiry—(1) This notice may be cited as the Securities Act (New Zealand Locomotive Engineers' Superannuation Fund) Exemption Notice 1999.

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

(3) This notice expires on the close of 30 September 2004.

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

"Act" means the Securities Act 1978:

"Employer" means a person who has been admitted to the Fund as a participating employer in accordance with the trust deed:

"FRS-32" means financial reporting standard FRS-32 Financial Reporting by Superannuation Schemes approved by the Accounting Standards Review Board under the Financial Reporting Act 1993:

"Fund" means the superannuation scheme called the New Zealand Locomotive Engineers' Superannuation Fund:

"Registered superannuation scheme" has the same meaning as in section 2 (1) of the Superannuation Schemes Act 1989:

"Regulations" means the Securities Regulations 1983:

"Specified participatory securities" means participatory securities in respect of the Fund:

"Trust deed"—

(a) Means the trust deed for the Fund; and

(b) Includes any amendments to the trust deed:

"Trustees" means the trustees of the Fund.

(2) Any term or expression that is not defined in this notice, but that is defined in the Act or the Regulations, has the meaning given to it by the Act or the Regulations.

3. Exemption from section 37A (2) of Act—Every trustee, every employer, every director of an employer, and every person acting on behalf of all or any of them are exempted from section 37A (2) of the Act in respect of any specified participatory securities.

4. Exemption from sections 33 (3) and 37 (3) of Act and regulation 3 (3) of Regulations—(1) Every trustee, every employer, every director of an employer, and every person acting on behalf of all or any of them are exempted from sections 33 (3) and 37 (3) of the Act and regulation 3 (3) of the Regulations in respect of any specified participatory securities.

(2) The exemptions are subject to the conditions set out in clauses 5 to 10.

5. Conditions relating to trustees—The exemptions in clause 4 (1) are subject to the condition that—

(a) The trustees are required to—

(i) Comply with section 15 (1) and (2) of the Superannuation Schemes Act 1989 relating to actuarial reports; and

(ii) Send a copy of every actuarial report to the Rail and Maritime Transport Union (Inc), forthwith after receiving the report; and

(iii) Make a copy of any actuarial report available to members of the Fund, free of charge, on request; and

(b) The Fund has 2 independent trustees of whom 1 is a chartered accountant and the other is a barrister or solicitor of the High Court, and each of whom has not less than 7 years' practice.

6. Conditions relating to trust deed—The exemptions in clause 4 (1) are subject to the condition that—

(a) The trust deed contains the matters set out in section 7 of the Superannuation Schemes Act 1989, as if the Fund were a registered superannuation scheme; and

(b) A copy of the trust deed is lodged with the Registrar for public inspection.

7. Conditions relating to prospectus—The exemptions in clause 4 (1) are subject to the condition that the registered prospectus relating to the specified participatory securities—

(a) Contains all of the information, statements, certificates, and other matters specified in Schedule 3C of the Regulations (except clause 12 (3)) that are applicable, as if the Fund were a registered superannuation scheme; and

(b) Specifies the date of, and period or date relating to, the latest actuarial report for the Fund that has been sent to the Rail and Maritime Transport Union (Inc); and

(c) Contains on the front of the prospectus a prominent statement that—

(i) The Fund is not a registered superannuation scheme; and

(ii) The Fund is not subject to supervision by the Government Actuary under the Superannuation Schemes Act 1989.

8. Condition relating to financial statements—The exemptions in clause 4 (1) are subject to the condition that the financial statements of the Fund are prepared in accordance with FRS-32.

9. Condition relating to administration manager, etc—(1) The exemptions in clause 4 (1) are subject to the condition that every person who holds the office of administration manager, investment manager, actuary, or auditor, of the Fund has complied with section 18A of the Superannuation Schemes Act 1989 if the person forms an opinion that—

(a) The Fund is not operating in accordance with this notice; or

(b) The financial position, the security of benefits, or the management, of the Fund is inadequate.

(2) For the purposes of the condition in subclause (1), sections 18A and 18B of the Superannuation Schemes Act 1989 apply as if—

(a) The Fund were a registered superannuation scheme; and

(b) Every reference in those sections to the Government Actuary were a reference to the Registrar.

10. Condition relating to member of Fund not incurring liabilities—The exemptions in clause 4 (1) are subject to the condition that no member of the Fund incurs any liabilities (including potential and contingent liabilities) as a result of the Fund not being a registered superannuation scheme.

Dated at Wellington this 28th day of September 1999.

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

[L.S.]

E. H. ABERNETHY,
Chairman.

EXPLANATORY NOTE

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

This notice comes into force on the day after the date of its notification in the *Gazette* and expires on the close of 30 September 2004.

The notice exempts the trustees of the New Zealand Locomotive Engineers' Superannuation Fund, subject to conditions, from certain provisions of the Securities Act 1978 and the Securities Regulations 1983 in respect of any offer of participatory securities in the Fund.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette:* 30 September 1999.
This notice is administered in the Securities Commission.