

Reprint
as at 29 February 2008

**Takeovers Code (Tauranga Energy
Consumer Trust) Exemption
Notice 2003**

(SR 2003/36)

Takeovers Code (Tauranga Energy Consumer Trust) Exemption Notice 2003:
expired, on 29 February 2008, by clause 2.

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 eprint.

A general outline of these changes is set out in the notes at the end of this eprint, together with other explanatory material about this eprint.

This notice is administered by the Takeovers Panel.

1 Title

This notice is the Takeovers Code (Tauranga Energy Consumer Trust) Exemption Notice 2003.

2 Expiry

This notice expires on the close of 28 February 2008.

3 Interpretation

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

Act means the Takeovers Act 1993

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

control percentage means the percentage of voting rights in Trust-Power Limited that a person holds or controls or is deemed to hold or control

TECT means the Tauranga Energy Consumer Trust established by deed of trust dated 21 December 1993

trust deed means the Tauranga Energy Consumer Trust deed of trust in force on 1 January 2003.

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 6(1) of Code for Kenneth Charles Collings

Kenneth Charles Collings is exempted from rule 6(1) of the Code in respect of the increase in his control percentage resulting from his appointment as a trustee of TECT on 9 July 2002.

5 Exemption from rule 6(1) of Code for trustees of TECT

(1) Every person who is appointed a trustee of TECT in accordance with the trust deed is exempted from rule 6(1) of the Code in respect of any increase in that person's control percentage resulting from the appointment.

(2) This clause applies to acts or omissions occurring on or after 1 March 2003.

Dated at Auckland this 28th day of February 2003.

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

J C King,
Chairperson.
[LS]

Statement of reasons

The Takeovers Panel has granted an exemption from rule 6(1) of the Takeovers Code (the **Code**) to Mr Kenneth Charles Collings in respect of his appointment as a trustee of the Tauranga Energy Consumer Trust (**TECT**) on 9 July 2002, which by operation of rule 6(2)(b) of the Code resulted in him being deemed to hold or control an increased percentage of the voting rights in TrustPower Limited (**TrustPower**).

The Takeovers Panel has granted an exemption from rule 6(1) of the Code to a person who is appointed as a trustee of TECT if the appointment will result in the person being deemed to hold or control (by the operation of rule 6(2)(b) of the Code) an increased percentage of voting rights in TrustPower. This exemption applies to acts or omissions occurring on or after 1 March 2003.

This notice expires on 28 February 2008.

The Takeovers Panel considers that it is appropriate to grant the exemption because Mr Collings, and any other person who, as a trustee of TECT, exercises control over voting rights in TrustPower,-

- does so in the capacity of trustee of TECT; and
- is subject to duties and obligations arising under the deed of trust of TECT and at law.

The Takeovers Panel considers that it is appropriate to also grant a retrospective exemption for the appointment of Mr Collings because it is satisfied that neither Mr Collings nor the trustees of TECT were aware of the application of the deeming provisions of the Code to the election of trustees at the time of his election.

The Takeovers Panel considers that the exemption is consistent with the objectives of the Code because the cost of obtaining the approval of shareholders of TrustPower other than TECT or its associates to the appointment of a trustee of TECT is not justified when the ap-

pointment would not, in substance, represent any change in the control of TECT's shares in TrustPower.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 6 March 2003.

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Notes

1 General

This is an eprint of the Takeovers Code (Tauranga Energy Consumer Trust) Exemption Notice 2003. It incorporates all the amendments to the Takeovers Code (Tauranga Energy Consumer Trust) Exemption Notice 2003 as at 29 February 2008. The list of amendments at the end of these notes specifies all the amendments incorporated into this eprint since 4 September 2007. Relevant provisions of any amending enactments that contain transitional, savings, or application provisions are also included, after the Principal enactment, in chronological order.

2 About this eprint

This eprint has not been officialised. For more information about officialisation, please see "Making online legislation official" under "Status of legislation on this site" in the About section of this website.

3 List of amendments incorporated in this eprint (most recent first)
