



Takeovers Code (Pike River Coal Limited) Exemption Notice 2010

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).

Contents

| | | Page |
|----|--|------|
| 1 | Title | 1 |
| 2 | Application | 2 |
| 3 | Expiry | 2 |
| 4 | Interpretation | 2 |
| 5 | Exemption from rule 7(d) of Code | 3 |
| 6 | Exemption from rule 16(b) and (d) of Code | 3 |
| 7 | Condition of exemptions relating to 2010 notice of meeting | 4 |
| 8 | Further condition of exemptions relating to 2010 notice of meeting | 5 |
| 9 | Condition of exemptions relating to Pike River's annual report | 5 |
| 10 | Exemptions not to apply in certain cases | 6 |
| 11 | Revocation | 6 |
| | Schedule | 6 |
| | Meaning of NZOG | |

Notice

- 1 Title**
This notice is the Takeovers Code (Pike River Coal Limited) Exemption Notice 2010.

2 Application

This notice applies to acts or omissions occurring on or after 19 May 2009.

3 Expiry

This notice expires on the close of 30 April 2012.

4 Interpretation

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

2009 notice of meeting means the notice sent to the shareholders of Pike River in respect of the meeting held on 26 June 2009 to approve, for the purposes of rule 7(d) of the Code, the allotment of voting securities to NZOG on the exercise of NZOG's 2011 options

2010 notice of meeting means the notice sent to the shareholders of Pike River in respect of the meeting held on 7 May 2010 to approve, for the purposes of rule 7(d) of the Code, the allotment of voting securities to NZOG on the exercise of the conversion rights, subscription rights, and exercise rights

2011 options means the options issued pursuant to the renounceable rights issue carried out by Pike River under a short form prospectus and investment statement dated 16 March 2009, the terms of which entitle the holder of a 2011 option to subscribe for 1 voting security for \$1.25 at any time until 5 pm on 24 April 2011

Act means the Takeovers Act 1993

Code means the Takeovers Code under the Act

convertible bonds means the convertible bonds issued to NZOG by Pike River pursuant to an agreement dated 19 April 2010 between New Zealand Oil & Gas Limited and Pike River, the terms of which entitle holders, on the conversion of the bonds on or before 12 March 2012, to—

- (a) rights to acquire voting securities (**conversion rights**) other than by reason of the matters referred to in paragraph (b)(i) and (ii); and
- (b) rights to acquire securities in Pike River (**subscription rights**) by reason of—

- (i) the offer, issue, grant, or sale of securities in Pike River or rights to acquire securities in Pike River; or
- (ii) an entitlement to receive securities in Pike River arising before the conversion of the bonds

exercise rights means rights attached to securities allotted on exercise of subscription rights that entitle holders of the securities to acquire voting securities

NZOG means New Zealand Oil & Gas Limited and every other company listed in the Schedule

Pike River means Pike River Coal Limited

voting security means a voting security in Pike River.

- (2) In this notice, a reference to a person increasing voting control is a reference to the person becoming the holder or controller of an increased percentage of voting rights in Pike River.
- (3) 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.

5 Exemption from rule 7(d) of Code

NZOG is exempted—

- (a) from rule 7(d) of the Code, to the extent that rule 7(d) requires the 2009 notice of meeting to comply with rule 16(b) of the Code, in respect of any increase in NZOG's voting control as a result of the allotment of voting securities to NZOG on the exercise of NZOG's 2011 options; and
- (b) from rule 7(d) of the Code, to the extent that rule 7(d) requires the 2010 notice of meeting to comply with rule 16(b) and (d) of the Code, in respect of any increase in NZOG's voting control as a result of the allotment of voting securities to NZOG on the exercise of NZOG's conversion rights, subscription rights, and exercise rights.

6 Exemption from rule 16(b) and (d) of Code

Pike River is exempted—

- (a) from rule 16(b) of the Code in respect of the 2009 notice of meeting; and
- (b) from rule 16(b) and (d) of the Code in respect of the 2010 notice of meeting.

7 Condition of exemptions relating to 2010 notice of meeting

- (1) The exemptions in clauses 5 and 6 are subject to the condition that the 2010 notice of meeting must have contained, or been accompanied by, the following particulars, calculated separately for Cases 1, 2, and 3:
 - (a) the maximum number of voting securities that could be allotted to NZOG;
 - (b) the maximum number of voting securities that could be allotted to NZOG, expressed as a percentage of the total voting securities on issue after the allotment of voting securities;
 - (c) the maximum percentage of the total voting securities on issue that could be held or controlled by NZOG after the allotment of voting securities;
 - (d) the maximum percentage of the total voting securities on issue that could be held or controlled by NZOG and NZOG's associates after the allotment of voting securities.
- (2) Case 1 is where—
 - (a) voting securities are allotted on the exercise of all of NZOG's 2011 options; and
 - (b) no conversion rights are exercised.
- (3) Case 2 is where—
 - (a) voting securities are allotted on the exercise of all conversion rights; and
 - (b) no 2011 options are exercised.
- (4) Case 3 is where voting securities are allotted on the exercise of all of NZOG's 2011 options and all conversion rights.
- (5) The numbers and percentages referred to in subclause (1) must have been calculated on the basis that—
 - (a) there is no change in the total number of voting securities on issue after 19 April 2010, other than as a result of the exercise of 2011 options and conversion rights; and

- (b) for Cases 1 and 3, no holder of 2011 options other than NZOG or, where subclause (1)(d) applies, no holder of 2011 options other than NZOG and NZOG's associates, exercises those options; and
- (c) no subscription rights or exercise rights are exercised; and
- (d) Pike River does not take any action after 19 April 2010 that causes or may cause the conversion price of the convertible bonds to change.

8 Further condition of exemptions relating to 2010 notice of meeting

The exemptions in clauses 5 and 6 are subject to the condition that the 2010 notice of meeting must have contained, or been accompanied by, a statement to the effect that NZOG may not exercise NZOG's 2011 options, conversion rights, or subscription rights in reliance on this notice to the extent that such exercise would cause NZOG and NZOG's associates to hold or control more than 55% of the voting rights in Pike River.

9 Condition of exemptions relating to Pike River's annual report

The exemptions in clauses 5 and 6 are subject to the condition that every annual report issued by Pike River until the expiry of this notice must disclose, in a form approved by the Panel,—

- (a) a summary of the terms of the 2011 options; and
- (b) a summary of the terms of the convertible bonds; and
- (c) a summary of the terms and conditions of the exemptions granted to NZOG and Pike River by this notice; and
- (d) a statement, as at the end of the financial year to which the annual report relates, of the following:
 - (i) the number of voting securities allotted to NZOG on the exercise of NZOG's 2011 options;
 - (ii) the number of voting securities allotted to NZOG pursuant to the terms of the convertible bonds;
 - (iii) the total percentage of the voting rights in Pike River held or controlled by NZOG and NZOG's associates (both individually and in aggregate):

- (iv) the maximum percentage of voting rights in Pike River that could be held or controlled by NZOG and NZOG's associates on the exercise of all their 2011 options and all conversion rights.

10 Exemptions not to apply in certain cases

The exemptions in clauses 5 and 6 do not apply in respect of any increase in voting control that occurs after—

- (a) there is an increase in NZOG's voting control, except—
 - (i) an increase in voting control as a result of the exercise of 2011 options, conversion rights, subscription rights, or exercise rights; or
 - (ii) an increase in voting control in accordance with the Takeovers Code (Class Exemptions) Notice (No 2) 2001; or
- (b) there is a change in the effective control of New Zealand Oil & Gas Limited; or
- (c) the total percentage of voting rights in Pike River held or controlled by NZOG and every associate of NZOG exceeds 55%.

11 Revocation

The Takeovers Code (Pike River Coal Limited) Exemption Notice 2009 (SR 2009/150) is revoked.

Schedule

Meaning of NZOG

cl 4(1)

ANZ Resources Pty Limited (a company incorporated in Australia)
Australia and New Zealand Petroleum Limited
Kupe Royalties Limited
National Petroleum Limited
Nephrite Enterprises Limited
NZOG 38259 Limited
NZOG 38483 Limited
NZOG 38494 Limited
NZOG Deepwater Limited

NZOG Developments Limited
NZOG Energy Limited
NZOG Offshore Limited
NZOG Services Limited
NZOG Taranaki Limited
Oil Holdings Limited
Petroleum Equities Limited
Petroleum Resources Limited
Resource Equities Limited
Stewart Petroleum Co Limited

Dated at Wellington this 20th day of May 2010.

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

[Seal]

K J O'Connor,
Member.

Statement of reasons

This notice applies to acts or omissions occurring on or after 19 May 2009 and expires on 30 April 2012.

The Takeovers Panel (the **Panel**) has granted exemptions for—

- New Zealand Oil & Gas Limited and its wholly owned subsidiaries listed in the *Schedule* (together, **NZOG**) from rule 7(d) of the Takeovers Code (the **Code**), to the extent that rule 7(d) requires the notice of the meeting of shareholders of Pike River Coal Limited (**Pike River**) in 2009 that approved

the allotment of voting securities to NZOG to be in accordance with rule 16(b) of the Code and the notice of the meeting of shareholders in 2010 that approved a further allotment of voting securities to NZOG to be in accordance with rule 16(b) and (d) of the Code; and

- Pike River from rule 16(b) of the Code in respect of the notice of the 2009 meeting and from rule 16(b) and (d) of the Code in respect of the notice of the 2010 meeting.

The exemptions apply in respect of any increase in NZOG's voting rights in Pike River as a result of the allotment of voting securities on the exercise of options or pursuant to the terms of convertible bonds. The Panel considers that the granting of the exemptions from rules 7(d) and 16(b) and (d) of the Code is appropriate and consistent with the objectives of the Code for the following reasons:

- the details required by rule 16(b) and (d) could not be specified in the notices because it was uncertain what number of options would ultimately be exercised by NZOG, or what rights NZOG would exercise pursuant to the terms of the convertible bonds, or what number of shares would be issued on any exercise of rights under the convertible bonds, or whether there would be any change to Pike River's capital structure before the expiry date of the options and the maturity of the convertible bonds, or what the price payable for the shares to issue on conversion of the convertible bonds would be:
- all non-associated shareholders had an opportunity to vote on the potential allotment of voting securities to NZOG in respect of the exercise of rights under the options and pursuant to the terms of the convertible bonds:
- if the non-associated shareholders approved the potential maximum allotment of voting securities to NZOG in respect of the options and the exercise of rights under the convertible bonds, then, by implication, the shareholders also approved any lesser percentage of voting rights that may be allotted to NZOG:
- the ability for shareholders to subscribe for securities and thus provide adequate funding to ensure a company's growth is an acknowledged method of raising capital in New Zealand, and

the Panel should facilitate these arrangements by granting appropriate exemptions where necessary.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 27 May 2010.
This notice is administered by the Takeovers Panel.
