



**THE FINANCIAL INSTITUTIONS (INTEREST RATES)
REGULATIONS 1984**

DAVID BEATTIE, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington this 28th day of May 1984

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to sections 34AA (1) and 50 of the Reserve Bank of New Zealand Act 1964, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

ANALYSIS

- | | | |
|--|--|---|
| <ol style="list-style-type: none"> 1. Title 2. Commencement and expiry 3. Interpretation 4. Restrictions on interest payable to financial institutions | | <ol style="list-style-type: none"> 5. Limitation on right to increase interest payable to financial institutions 6. Penalty rates 7. Exemptions 8. Prohibited transactions 9. Savings 10. Transitional provisions |
|--|--|---|
-

REGULATIONS

1. Title—These regulations may be cited as the Financial Institutions (Interest Rates) Regulations 1984.

2. Commencement and expiry—(1) These regulations shall come into force on the 29th day of May 1984.

(2) These regulations shall continue in force until the close of the 31st day of August 1984, and shall then expire.

3. Interpretation—(1) In these regulations, unless the context otherwise requires,—

“Credit” has the meaning given to it by section 2 of the Credit Contracts Act 1981:

“Credit contract” has the meaning given to it by section 3 of the Credit Contracts Act 1981:

“Creditor” has the meaning given to it by section 2 of the Credit Contracts Act 1981:

“Credit sale agreement” has the meaning given to it by section 2 of the Reserve Bank of New Zealand Act 1964:

“Debtor” has the meaning given to it by section 2 of the Credit Contracts Act 1981:

“Finance rate” has the meaning given to it by section 6 of the Credit Contracts Act 1981:

“Financial institution” has the meaning given to it by section 2 of the Reserve Bank of New Zealand Act 1964:

“Hire purchase agreement” has the meaning given to it by section 2 of the Reserve Bank of New Zealand Act 1964:

“Interest”, in relation to any credit contract or loan, includes—

(a) All money or money’s worth that, in accordance with the terms of the credit contract or loan, the debtor or borrower has paid or provided or is or may become liable to pay or provide in excess of the amount of the credit or loan; and

(b) All money or money’s worth paid or provided, in accordance with the terms of the credit contract or loan, to or for the benefit of the creditor or lender in excess of the amount of the credit or loan:

“Rate of interest” means—

(a) Where interest—

(i) Is paid or credited by instalments in arrears, being instalments consisting partly of interest and partly of repayments in respect of the amount of the credit or loan and payable at intervals during the term of the credit or loan; and

(ii) Is payable on such part of the amount of the credit or loan as remains outstanding at the commencement of a period beginning on a date not more than 3 months before the date of each instalment,—

the rate which expresses the amount of interest payable in respect of each period as a percentage per annum of the amount of the credit or loan outstanding at the commencement of that period:

(b) Where interest—

(i) Is paid or credited by instalments in arrears from time to time during the term of the credit or loan; and

(ii) Is payable upon the amount of the credit or loan for the time being outstanding or upon the maximum amount of the credit or loan outstanding during any specified period not exceeding 1 month,—

the rate which expresses the amount of interest as a percentage per annum of that part of the amount of the credit or loan upon which interest is so payable:

(c) In all other cases, the rate which expresses the amount of interest paid or credited for any period as a percentage per annum of the amount of the credit or loan reduced by—

- (i) The amount of any part of the credit or loan which has been repaid before the expiration of the period in respect of which the interest is payable; and
- (ii) Where the period in respect of which any instalment of interest is payable exceeds 3 months, the amount of any interest paid or credited in respect of that period before the expiration of that period:

“Revolving credit contract” means a credit contract where it is contemplated at the time the contract is entered into that credit will be provided under the contract from time to time, but does not include a contract for the provision of a known or determinable amount of credit by instalments of a known or determinable amount:

“Specified financial institution” means any of the following financial institutions:

- (a) Any trading bank; or
- (b) Any trustee bank; or
- (c) Any private savings bank as defined in section 2 of the Private Savings Banks Act 1983; or
- (d) Any life insurance company, being a company as defined in section 2 of the Life Insurance Act 1908; and includes any branch, division, or office of any such company; or
- (e) Any superannuation fund or scheme that—
 - (i) Is approved by, or is deemed to have been granted the interim approval of, the Government Actuary under the Superannuation Schemes Act 1976; or
 - (ii) Is approved for the time being for the purposes of the Income Tax Act 1976 by the Government Actuary; or
 - (iii) Is declared by the Governor-General by Order in Council, either specifically or by reference to a class of superannuation fund or scheme defined in that Order in Council, to be a financial institution for the purposes of the Reserve Bank of New Zealand Act 1964; or
- (f) Any building society as defined in section 2 of the Building Societies Act 1965:

“Trading bank” means any bank named in the First Schedule to the Reserve Bank of New Zealand Act 1964:

“Trustee bank” means a trustee bank established under the Trustee Banks Act 1983.

(2) Without limiting subclause (1) of this regulation, it is hereby declared that, for the purposes of these regulations, a financial institution shall be deemed to provide credit under a credit contract or otherwise lend money if that financial institution—

- (a) Finances or discounts any hire purchase agreement or credit sale agreement; or
- (b) Pays any sum as consideration for the assignment, to that financial institution, of any debt or other obligation owing or due to the person to whom the consideration is paid.

(3) Where subclause (2) (a) of this regulation applies, the interest, in relation to the credit contract or loan, shall be the amount by which the money or money’s worth that the financial institution receives or is entitled to receive by virtue of its action in financing or discounting the hire purchase

agreement or credit sale agreement exceeds the money or money's worth provided by the financial institution in financing or discounting that hire purchase agreement or credit sale agreement.

(4) Where subclause (2) (b) of this regulation applies, the interest, in relation to the credit contract or loan, shall be the amount by which the money or money's worth that the financial institution receives or is entitled to receive by virtue of the assignment to it of the debt or other obligation exceeds the money or money's worth paid by the financial institution as consideration for the assignment.

(5) For the purposes of subclause (2) (a) of this regulation, where by virtue of 2 or more agreements, none of which by itself constitutes a hire purchase agreement or a credit sale agreement, there is a transaction which is in substance or effect a hire purchase agreement or a credit sale agreement, as defined in subclause (1) of this regulation, the transaction shall be treated as a hire purchase agreement or credit sale agreement.

4. Restrictions on interest payable to financial institutions—(1) No financial institution shall provide credit under a credit contract or otherwise lend money at a rate of interest that exceeds,—

(a) Where the credit is provided or the money is lent by a specified financial institution, 15 percent per annum; or

(b) Where the credit is provided or the money is lent by a financial institution (other than a specified financial institution), 17 percent per annum.

(2) The provision of credit under a credit contract or the lending of money does not contravene subclause (1) of this regulation—

(a) If, in the case of credit provided under a credit contract, the finance rate does not exceed,—

(i) Where the credit is provided by a specified financial institution, 15 percent per annum; or

(ii) Where the credit is provided by a financial institution (other than a specified financial institution), 17 percent per annum; or

(b) If, in the case of money lent, the finance rate that would apply if the lending of the money were the subject of a credit contract does not exceed,—

(i) Where the money is lent by a specified financial institution, 15 percent per annum; or

(ii) Where the money is lent by a financial institution (other than a specified financial institution), 17 percent per annum.

(3) The provision of credit under a revolving credit contract does not contravene subclause (1) of this regulation if—

(a) Interest (as defined in section 2 of the Credit Contracts Act 1981) is payable under the revolving credit contract; and

(b) The rate at which that interest is payable (calculated under the Credit Contracts Act 1981 on the same basis as the finance rate as if that interest were the only component of the cost of credit) does not exceed,—

(i) Where the credit is provided by a specified financial institution, 15 percent per annum; or

(ii) Where the credit is provided by a financial institution (other than a specified financial institution), 17 percent per annum.

- (4) A financial institution that—
- (a) Extends or agrees to extend any credit contract or loan beyond the expiry of its term; or
 - (b) Allows or agrees to allow a credit contract or loan to run on for a period of 6 months or more beyond the expiry of its term,—
- shall be deemed to provide credit under a credit contract or to lend money.

5. Limitation on right to increase interest payable to financial institutions—(1) No financial institution shall, in the case of a credit contract or loan, whether made before or after the commencement of these regulations, increase the rate of interest payable in respect of the credit or loan above the maximum rate that would, in the case of credit provided or money lent, at any time while these regulations are in force, by a financial institution, be applicable under regulation 4 of these regulations.

(2) The increasing of the rate of interest payable in respect of credit provided or money lent does not contravene subclause (1) of this regulation—

- (a) If, in the case of credit provided under a credit contract, the finance rate, after the increase, does not exceed,—
 - (i) Where the credit is provided by a specified financial institution, 15 percent per annum; or
 - (ii) Where the credit is provided by a financial institution (other than a specified financial institution), 17 percent per annum; or
 - (b) If, in the case of money lent, the finance rate that would apply after the increase if the lending of the money were the subject of a credit contract does not exceed,—
 - (i) Where the money is lent by a specified financial institution, 15 percent per annum; or
 - (ii) Where the money is lent by a financial institution (other than a specified financial institution), 17 percent per annum; or
 - (c) If, in the case of a revolving credit contract or of credit provided under a revolving credit contract,—
 - (i) Interest (as defined in section 2 of the Credit Contracts Act 1981) is payable under the revolving credit contract; and
 - (ii) The rate at which that interest is payable (calculated under the Credit Contracts Act 1981 on the same basis as the finance rate as if that interest were the only component of the cost of credit) does not, after the increase, exceed, where the credit is or is to be provided by a specified financial institution, 15 percent per annum, or, where the credit is or is to be provided by a financial institution (other than a specified financial institution), 17 percent per annum.
- (3) Nothing in subclause (1) of this regulation shall apply to any increase in the rate of interest payable in respect of a credit contract or loan where that credit contract or the contract for that loan either—
- (a) Was entered into or made before the 29th day of May 1984 and requires that the rate of interest shall be adjusted automatically at any time or times in accordance with a formula or index set out or specified in the contract or loan; or
 - (b) Was entered into or made on or after the 29th day of May 1984 but resulted from the acceptance of an offer which was made before that date and which required that the rate of interest should be adjusted automatically at any time or times in accordance with a formula or index set out or specified in the contract or loan.

6. Penalty rates—(1) Where section 40 (2) of the Credit Contracts Act 1981 (as substituted by section 6 of the Credit Contracts Amendment Act 1982) permits, in respect of any period, an increase in the finance rate or interest rate payable under a credit contract, these regulations do not prevent that increase taking effect if—

- (a) The credit contract was entered into before the 29th day of May 1984;
or
- (b) The credit contract was entered into on or after the 29th day of May 1984 and the finance rate or interest rate payable after the increase does not, in respect of the period, exceed by more than 2—
 - (i) The finance rate otherwise payable under the credit contract;
or
 - (ii) In the case of a revolving credit contract, the interest rate (calculated under the Credit Contracts Act 1981 on the same basis as the finance rate as if the interest were the only component of the cost of credit) otherwise payable under the revolving credit contract.

(2) Where, as permitted by section 40 (3) of the Credit Contracts Act 1981, a credit contract contains a term to the effect that, if the debtor fails to pay an amount payable under the contract by the payment date specified in the contract, the debtor shall be liable to pay to the creditor interest at a specified rate on the amount for the period during which it remains unpaid, these regulations do not prevent interest being charged on that amount at that specified rate if—

- (a) The credit contract was entered into before the 29th day of May 1984;
or
- (b) The credit contract was entered into on or after the 29th day of May 1984 and the specified rate does not exceed by more than 2—
 - (i) The finance rate otherwise payable under the credit contract;
or
 - (ii) In the case of a revolving credit contract, the interest rate (calculated under the Credit Contracts Act 1981 on the same basis as the finance rate as if the interest were the only component of the cost of credit) otherwise payable under the revolving credit contract.

(3) Where—

- (a) A person's account with a trading bank or a trustee bank is debited;
and
- (b) The effect of the debit is to put the account into overdraft, or to increase the amount of an overdraft beyond an agreed limit; and
- (c) The creation of the overdraft, or the increase in the limit, has not been agreed between the trading bank or trustee bank and the person before the debit of the account,—

nothing in these regulations prevents the trading bank or trustee bank charging interest (as defined in section 2 of the Credit Contracts Act 1981) in respect of the amount of the overdraft or the amount by which the overdraft exceeds the agreed limit if, where the creation of the overdraft has not been agreed on, the interest rate does not exceed 17 percent per annum, or, where the creation of the overdraft has been agreed on, does not exceed by more than 2 the interest rate applicable in respect of the overdraft.

7. Exemptions—Nothing in these regulations applies in respect of the interest payable to a financial institution in respect of—

- (a) A loan involving the borrowing of money outside New Zealand in terms of the Exchange Control Regulations 1978*; or
- (b) The discounting by a financial institution of a bill (as defined in section 2 of the Bills of Exchange Act 1908) payable otherwise than in New Zealand currency; or
- (c) A mortgage loan that is subject to the Economic Stabilisation (Mortgage Loans) Regulations 1983†.

8. Prohibited transactions—No person shall—

- (a) Enter into any transaction, or make any contract or arrangement, purporting to do, whether presently or at some future time or upon the happening of any event or contingency, anything that contravenes or will contravene the provisions of these regulations; or
- (b) Enter into any transaction, or make any contract or arrangement, whether orally or in writing, or do anything, for the purpose of or having the effect of, in any way, whether directly or indirectly, defeating, evading, or preventing the operation of these regulations in any respect.

9. Savings—(1) Nothing in these regulations shall affect the validity or enforceability, as between any financial institution and any other person, of any transaction.

(2) The fact that a contract has been entered into or money has been lent in contravention of any of the provisions of these regulations or that any act that contravenes any of the provisions of these regulations has been committed, in the course of the performance of any credit contract or any contract related to the lending of money, shall not affect the creditor's or lender's right to register any mortgage or any other security for the credit or the money lent.

10. Transitional provisions—(1) Where, before the 29th day of May 1984, a financial institution—

- (a) Has made an offer to enter, as a creditor, into a credit contract with any person; or
 - (b) Has made an offer to lend money to any person; or
 - (c) Has, as a creditor, entered into a credit contract with any person; or
 - (d) Has entered into a contract or commitment or arrangement to provide credit by means of a line of bills (as defined in section 2 of the Bills of Exchange Act 1908) to be—
 - (i) Discounted; or
 - (ii) Accepted and discounted,—
 by a financial institution; or
 - (e) Has entered into a contract to lend money to any person,—
- nothing in regulation 4 of these regulations shall apply in respect of any credit provided or money lent to that person after the commencement of these regulations in accordance with the terms of that offer or commitment

*S.R. 1978/61

Amendment No. 1: S.R. 1980/104

Amendment No. 2: S.R. 1983/140

Amendment No. 3: S.R. 1983/273

Amendment No. 4: S.R. 1984/7

†S.R. 1983/262

Amendment No. 1: S.R. 1984/25

or arrangement or contract and within any limit imposed (as at the close of the 28th day of May 1984) by or pursuant to those terms on the amount of credit to be provided or money to be lent.

(2) Where any limit mentioned in subclause (1) of this regulation is exceeded, regulation 4 of these regulations applies in respect of the credit provided or money lent in excess of that limit.

(3) Where, before the 29th day of May 1984, a financial institution has, in accordance with the terms of a credit contract or a contract related to the lending of money, lawfully notified the debtor or borrower that the rate of interest payable in respect of the credit or the money lent is to be altered on or after that date, nothing in these regulations shall prevent the alteration to which the notice relates taking place in accordance with the terms of the credit contract or any contract related to the lending of the money.

P. G. MILLEN,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 29 May 1984, limit the rates of interest that financial institutions may charge in respect of credit provided by them under credit contracts or in respect of money lent by them. In the case of rates of interest charged by private persons, similar limitations are being imposed by regulations made under the Economic Stabilisation Act 1948.

Nothing in these regulations affects the rates specified in respect of mortgage loans in the Economic Stabilisation (Mortgage Loans) Regulations 1983.

These regulations expire with the close of 31 August 1984.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 29 May 1984.

These regulations are administered in the Reserve Bank of New Zealand.