

1979/75



THE FINANCIAL SERVICES REGULATIONS 1979

KEITH HOLYOAKE, Governor-General

ORDER IN COUNCIL

At the Government Buildings at Wellington this 2nd day of April 1979

Present:

THE RIGHT HON. R. D. MULDOON PRESIDING IN COUNCIL

PURSUANT to the Economic Stabilisation Act 1948, 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 and commencement 2. Interpretation 3. Administration of regulations 4. Notification by certain financial enterprises of increases in prices of financial services 5. Notification of proposed increases in prices of specified financial services | <ol style="list-style-type: none"> 6. Review of prices of financial services 7. Appeals 8. Prohibited transactions 9. Reserve Bank may determine alternative method of compliance 10. Offences 11. Commerce Act 1975 not affected Schedule |
|--|--|

REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Financial Services Regulations 1979.

(2) These regulations shall come into force on the 6th day of April 1979.

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

“Commerce Commission” means the Commerce Commission constituted by the Commerce Act 1975:

“Credit instrument” means any agreement (whether in writing or not) acknowledging an obligation to pay a sum or sums of money on demand or at any future time or times:

“Financial enterprise” means any person (including a body of persons, whether incorporated or not) who in the course of business—

(a) Borrows money or accepts deposits (whether on demand or for a fixed term) or receives credit (other than normal trade credit) or sells any credit instrument; and also

(b) Lends money or grants credit (other than normal trade credit) or buys or discounts any credit instrument;—
and, without limiting the generality of the foregoing provisions of this definition, includes—

(c) Any person (including a body of persons, whether incorporated or not) who acts as agent or intermediary in the course of business in any of the transactions aforesaid; and

(d) Any bank named in the First Schedule to the Reserve Bank of New Zealand Act 1964; and

(e) Any trustee savings bank established under the Trustee Savings Banks Act 1948; and

(f) Any private savings bank as defined in section 2 of the Private Savings Banks Act 1964; and

(g) 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; and

(h) Any building society as defined in section 2 of the Building Societies Act 1965; and

(i) Any specified person or class of person (including a body or bodies of persons, whether incorporated or not) engaged in the business of borrowing or lending money or buying, selling, or otherwise dealing in credit instruments who is or are declared by the Minister of Finance, by notice in the *Gazette*, to be a financial enterprise or financial enterprises for the purpose of these regulations;—
but does not include—

(j) Any person (including a body of persons, whether incorporated or not) who (not being a person referred to in paragraphs (c) to (i) of this definition) performs services of any of the kinds specified in paragraph (a) or paragraph (b) of this definition that are incidental to his principal profession, trade, or business; or

(k) Any person or class of persons or description of persons (including a body or bodies of persons, whether incorporated or not) specified by the Minister of Finance, by notice in the *Gazette*, as not being a financial enterprise or financial enterprises for the purpose of these regulations:

“Financial services” means—

(a) The lending of money or granting of credit (other than normal trade credit):

(b) The provision of life insurance, life assurance, or life reinsurance:

(c) Services provided in respect of the acceptance of deposits or banking:

(d) The selling or discounting of any credit instrument, whether as principal or agent:

“Funds employed”, in relation to any financial enterprise, means the total of—

(a) The shareholders’ funds, or, as the case may be, the equity capital invested by the proprietor or partners; and

(b) Any reserves of capital or revenue; and

(c) All other liabilities of the financial enterprise—
determined in each case by the application of generally accepted accounting principles consistently applied by the financial enterprise:

“Price”, in relation to the performance of any financial service, includes the amount of any discount paid or given on the sale or purchase of any credit instrument, and also includes any interest charges:

“Reserve Bank” means the Reserve Bank of New Zealand constituted under the Reserve Bank of New Zealand Act 1964:

“Specified financial service” means a service of a kind specified in the Schedule to these regulations:

“Trade credit” means credit given or, as the case may require, received in the normal course of business in relation to the sale or purchase of goods or for the performance of services.

3. Administration of regulations—Any powers or functions which the Minister of Trade and Industry may exercise under the Act for the purposes of these regulations shall be exercised by the Minister of Finance.

4. Notification by certain financial enterprises of increases in prices of financial services—(1) Every financial enterprise which, at the end of its immediately preceding financial year, employed in its business funds of \$2,000,000 or more shall—

(a) If it increases the price of any financial service supplied by it (not being a specified financial service or the selling or discounting of any credit instrument), notify the Reserve Bank in writing of details of the increased price within 14 days after its implementation; and

(b) If it supplies, in addition to the financial services theretofore being supplied by it, any additional financial service (not being a specified financial service or the selling or discounting of any credit instrument), notify the Reserve Bank in writing of the price of the additional financial service within 14 days after the date on which it is first supplied.

(2) Any notification under this regulation shall be in such form as the Reserve Bank requires or approves.

5. Notification of proposed increases in prices of specified financial services—(1) Before any supplier increases the price of any specified financial service, he shall forward to the Reserve Bank a notice in writing stating the reasons for the price increase and itemised details of the financial figures on which the calculation of the price increase is based.

(2) Where the Reserve Bank does not, within 28 days after receiving a notice pursuant to subclause (1) of this regulation, notify the supplier that the Reserve Bank objects to the proposed price increase, the

supplier may increase the price to the extent so notified; but, if the Reserve Bank so objects within that period, the supplier shall not increase that price except to the extent approved by the Reserve Bank.

(3) In considering any proposed increase in the price of any specified financial service, the Reserve Bank—

(a) Shall, in addition to such matters as it is empowered or required to have regard to by any other Act, have regard to the economic stability of New Zealand; and

(b) Shall if it thinks fit, take into account the profitability of the supplier in relation to shareholders' funds, or, as the case may be, to the equity capital invested by the proprietor or partners, or to the assets employed in, or to the annual sales of, the whole of the supplier's business (or, if the Reserve Bank thinks fit, any particular section thereof), and to the extent to which the supplier has the capacity to absorb any part of any increases in costs without the financial stability and viability of his business (or, if the Reserve Bank thinks fit, of any particular section thereof) being affected.

(4) Subject to regulation 7 of these regulations, any decision of the Reserve Bank on any such notification shall be final and conclusive until revoked or amended by the Reserve Bank.

(5) Any notification under this regulation shall be in such form as the Reserve Bank requires or approves.

6. Review of prices of financial services—(1) Notwithstanding anything in these regulations, the Reserve Bank may at any time, of its own motion or at the request of the Minister of Finance, inquire into the prices charged for any financial services by any supplier or suppliers of financial services.

(2) Where after investigation pursuant to subclause (1) of this regulation, the Reserve Bank is of the opinion, on such evidence as it considers sufficient and in relation to such considerations as it thinks relevant, that the price for any new financial service or a price increase or price increases for any financial services are excessive, the Bank may report its opinion to the Minister of Finance with one or more of the following recommendations:

(a) That any financial services be made, by amendment to the Schedule to these regulations, specified financial services:

(b) Such other recommendation as the Reserve Bank thinks fit.

7. Appeals—(1) Any supplier of a specified financial service who is dissatisfied with any decision or requirement of the Reserve Bank made or imposed under any provision of regulation 5 of these regulations may appeal, within a period not later than 28 days after being notified in writing of that decision or requirement, to the Commerce Commission by giving to that Commission a written notice of appeal.

(2) The Commerce Commission may determine any appeal under this regulation in such manner as it thinks fit, and its determination shall be final:

Provided that the Commerce Commission shall have regard to all matters that the Reserve Bank is required to take into account in making its determination that is the subject of the appeal.

(3) Unless the Commerce Commission otherwise directs, the decision or requirement appealed against shall remain in force pending determination of the appeal.

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 any thing, for the purpose of or having the effect of, in any way, whether directly or indirectly, defeating, evading, avoiding, or preventing the operation of these regulations in any respect.

9. Reserve Bank may determine alternative method of compliance—

On the application by any financial enterprise or supplier or on its own motion, the Reserve Bank may, where it considers that it would be impracticable or unreasonable for any financial enterprise or supplier, or any class or classes of financial enterprises or suppliers to comply with any provision of subclause (1) of regulation 4 or of subclause (1) or subclause (2) of regulation 5 of these regulations, dispense with that provision in relation to the financial enterprise or supplier or class or classes of financial enterprises or suppliers, and determine an alternative basis upon which the financial enterprise or supplier or class or classes of financial enterprises or suppliers shall give the notifications required for the purpose of subclause (1) of regulation 4 or of subclause (1) or subclause (2) of regulation 5 of these regulations.

10. Offences—Without limiting the provisions of section 18 of the Economic Stabilisation Act 1948, every person commits an offence against these regulations, and is liable accordingly to the penalties specified in subsection (3) of that section, who—

- (a) Being a financial enterprise, contravenes regulation 4 of these regulations; or
- (b) Being a supplier of a specified financial service, contravenes subclause (1) or subclause (2) of regulation 5 of these regulations;
or
- (c) Contravenes regulation 8 of these regulations.

11. Commerce Act 1975 not affected—Except as provided in the proviso to regulation 7 (2) of these regulations, nothing in these regulations shall affect any power exercisable by the Examiner of Commercial Practices or by the Commerce Commission or any duty imposed on any person under the Commerce Act 1975.

SCHEDULE

Regs. 2, 5, 6 (2) (a), and 10 (b)

SPECIFIED FINANCIAL SERVICES

The operation of current accounts by trading banks and the clearing of debits and credits to those accounts.

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 6 April 1979, continue, with some modifications, certain of the provisions of the Stabilisation of Prices Regulations 1974 relating to financial services. A ceiling is no longer placed on the overall profit which financial enterprises may realise in any financial year.

The general effect of these regulations is—

- (a) To require financial enterprises employing funds of \$2,000,000 or more to notify the Reserve Bank in writing of any increases in the price of any financial services supplied by them within 14 days of their implementation.
- (b) To enable the prices of such financial services or of any other financial services supplied by any supplier to be reviewed by the Reserve Bank.
- (c) To require all suppliers of services specified in the Schedule to the regulations to notify the Reserve Bank, under regulation 5 of the regulations, of proposed increases in the prices of these services. Such increases may be implemented if the Reserve Bank does not object within 28 days of the receipt of the notification, but if the Bank objects the supplier is not permitted to increase that price except to the extent approved.
- (d) To allow an appeal to the Commerce Commission against decisions made under regulation 5 of the regulations by the Reserve Bank.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 5 April 1979.

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