



## THE FINANCIAL SERVICES REGULATIONS 1984

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DAVID BEATTIE, Governor-General

### ORDER IN COUNCIL

At the Government House at Wellington this 18th day of July 1984

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL 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.

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#### REGULATIONS

**1. Title**—These regulations may be cited as the Financial Services Regulations 1984.

**2. Commencement and expiry**—(1) These regulations shall come into force on the 19th day of July 1984.

(2) These regulations shall continue in force until the close of the 18th day of October 1984, and shall then expire.

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

“Authority” means the Financial Services Price Review Authority established by regulation 8 of these regulations:

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

“Financial service” means any kind of service which falls within any of the following categories of service:

(a) The guaranteeing of the repayment of any money lent or credit granted:

(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 making of arrangements for the lending of money or the granting of credit:

“New financial service”, in relation to a financial service provided or to be provided by a supplier, means a financial service not previously provided by that supplier:

“Price”, in relation to the performance of any financial service, includes—

(a) Every valuable consideration whatsoever, whether direct or indirect; and

(b) Any consideration which in effect relates to the performance of any financial service, although ostensibly relating to any other matter or thing:

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

“Supplier” means any person who provides a financial service or financial services.

(2) For the purposes of these regulations, where one company holds more than half in nominal value of the equity share capital of another company, those companies are deemed to be related companies.

(3) For the purposes of these regulations, where a company holds more than half in nominal value of the equity share capital of each of 2 or more companies, each of those companies, including the first-mentioned company, are deemed to be related to each of the others.

**4. Application of regulation 5**—(1) Regulation 5 of these regulations applies to—

(a) Any supplier who, at any time while these regulations are in force, provides any financial service that has a value exceeding \$10,000; and

(b) Any supplier who, at any time while these regulations are in force, provides any financial service that has a value which, when aggregated with the values of all other financial services being provided by that supplier, exceeds \$10,000.

(2) For the purposes of subclause (1) of this regulation, the value of a financial service is made up of,—

- (a) In the case of the guaranteeing of any money lent or credit granted, the total amount for which the supplier may become liable in accordance with the terms of each guarantee:
- (b) In the case of the provision of life insurance, life assurance, or life reinsurance, the amount insured under each policy:
- (c) In the case of services provided in respect of the acceptance of deposits or banking, the total amount of the deposits accepted or the total amount received by way of banking.

(3) For the purposes of subclause (1) of this regulation, the value of financial services provided or made by any company shall be deemed to include the value of financial services provided or made by any related company.

**5. Notification, in relation to financial services, of proposed increases in prices or of proposed prices**—(1) Before any supplier to whom this regulation applies increases the price of any financial service provided by that supplier in New Zealand or provides any new financial service in New Zealand, that supplier shall deliver to the Head Office of the Reserve Bank at Wellington a notice in writing stating,—

- (a) In the case of an increase in the price of a financial service, the reasons for the price increase and itemised details of the financial figures on which the calculation of the price increase is based; or
- (b) In the case of a new financial service, the price of the service and itemised details of the financial figures on which the price is based.

(2) Where the Reserve Bank does not, within 28 days of receiving a notice pursuant to subclause (1) of this regulation, notify the supplier that the Reserve Bank objects to the proposed price increase, or, in the case of a new financial service, the price, the supplier may increase the price to the extent so notified, or, in the case of a new financial service, charge the price 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 or, in the case of a new financial service, shall not charge for that service a price that is higher than the price approved by the Reserve Bank.

(3) Subject to regulation 11 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.

(4) For the purposes of this regulation, any price offered to and accepted by a supplier to whom this regulation applies shall be deemed to have been determined by the supplier.

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

**6. Criteria to be observed by Reserve Bank and Authority**—The Reserve Bank and the Authority, in exercising their respective powers under regulations 5 and 11 of these regulations,—

- (a) Shall, in addition to such matters as the Reserve Bank or the Authority, as the case may be, is empowered or required to have regard to by any other Act, have regard to the economic policies of the Government which, in relation to the economic stability of New Zealand, are transmitted in writing from time to time to the Reserve Bank by the Minister of Finance; and

- (b) Shall, if the Reserve Bank or the Authority, as the case may be, thinks fit, take into account—
- (i) The profits of the supplier in relation to the shareholders' funds of, or, as the case may be, to the equity capital invested by the proprietors or partners in, the whole of the supplier's business (or, if it thinks fit, any particular section of it); or
  - (ii) The assets employed in, or the annual sales of, the whole of the supplier's business (or, if it thinks fit, any particular section of it); and
- (c) Shall, if the Reserve Bank or the Authority, as the case may be, thinks fit, take into account the extent to which the profits of the supplier in relation to the items mentioned in subparagraphs (i) and (ii) of paragraph (b) of this regulation could be limited without the financial stability and economic viability of his business (or, if it thinks fit, of any particular section of it) being affected.

**7. 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 service by any supplier.

(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 or the proposed price for any financial service is excessive, the Bank may report its opinion to the Minister of Finance with such recommendations as the Reserve Bank thinks fit.

**8. Financial Services Price Review Authority**—(1) There is hereby established an authority to be known as the Financial Services Price Review Authority.

(2) The Authority shall consist of one member of the Commerce Commission to be nominated from time to time by the Chairman of that Commission.

(3) The Authority established by subclause (1) of this regulation is hereby declared to be the same Authority as the Financial Services Price Review Authority established immediately before the coming into force of these regulations under regulation 11 of the Financial Services Regulations (No. 2) 1983\* (as substituted by regulation 6 (1) of the Financial Services Regulations (No. 2) 1983, Amendment No. 1†).

**9. Function of Authority**—The function of the Authority shall be to investigate and determine applications for review made under regulation 11 of these regulations and referred to it by the Reserve Bank.

**10. Seal**—The Authority shall have a seal, which shall be judicially noticed by all Courts for all purposes.

**11. Applications for review**—(1) Any supplier who is dissatisfied with a decision of or a requirement imposed by the Reserve Bank under any provision of these regulations may apply in writing to the Reserve Bank for a review of that decision or requirement.

(2) Where any supplier is dissatisfied with a decision of or requirement imposed by the Reserve Bank, that supplier—

(a) Shall not make an application under section 4 (1) of the Judicature Amendment Act 1972 for a review of that decision or requirement; and

(b) Shall not commence any proceedings in which that decision or requirement is sought to be challenged, quashed, or called in question in any Court—

unless an application made by that supplier for a review of that decision or requirement has first been determined under this regulation.

(3) Any application for a review pursuant to this regulation shall be made by delivering or posting it to the Head Office of the Reserve Bank.

(4) On receipt of any such application the Reserve Bank shall endeavour to resolve the matter promptly by administrative means, and, if it is unable to resolve the matter, shall refer the application to the Authority.

**12. Procedure of Authority**—(1) As soon as conveniently may be after referral of any application by the Reserve Bank, the Authority shall investigate the matter in such manner as it thinks appropriate.

(2) The Authority may hear and obtain information from such persons as it thinks fit, and may make such inquiries as it thinks fit.

(3) The Authority may receive any relevant information whether or not that information would be admissible in a Court of law.

(4) It shall not be necessary for the Authority to hold any hearing and no person shall be entitled as of right to be heard by the Authority.

(5) So long as the person holding office as the Authority acts bona fide in the discharge of his duties, no action shall lie against him for anything he may say or do in the course of investigating and determining any request for review.

(6) Subject to these regulations, the Authority may regulate its procedure in such manner as it thinks fit.

(7) Proceedings before the Authority shall not be held invalid for want of form.

(8) On any application for review under regulation 11 of these regulations, the Authority may—

(a) Confirm the decision or requirement in respect of which the review was sought; or

(b) Reverse the decision or cancel the requirement and refer the matter back to the Reserve Bank with such written directions concerning the further exercise of the Reserve Bank's powers as the Authority thinks fit.

(9) The Authority shall, in giving its decision on any application for review under regulation 11 of these regulations, state its reasons for the decision, and shall, if so required by the applicant or the Reserve Bank, state those reasons in writing.

**13. Validity of decision of Reserve Bank pending determination of application for review**—Pending investigation and determination of the application for review under regulation 11 of these regulations, the decision of or requirement imposed by the Reserve Bank shall continue in force and have effect according to its tenor.

**14. Prohibited transactions**—No person shall—

- (a) Enter into any transaction, or make any contract or arrangement, purporting to do, whether orally or in writing, 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.

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

(2) The Reserve Bank may at any time revoke any dispensation granted under subclause (1) of this regulation or amend or revoke any determination made under that subclause.

**16. 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 supplier, contravenes subclause (1) or subclause (2) of regulation 5 of these regulations; or
- (b) Contravenes regulation 14 of these regulations.

**17. Acts not affected**—Nothing in these regulations affects—

- (a) 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; or
- (b) Any power exercisable by any person under the Reserve Bank of New Zealand Act 1964 or any duty imposed on any person under that Act.

**18. Revocations**—The Financial Services Regulations (No. 2) 1983\* and the Financial Services Regulations (No. 2) 1983, Amendment No. 1† are hereby revoked.

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

\*S.R. 1983/251

†S.R. 1984/26

## 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 19 July 1984, consolidate and amend the Financial Services Regulations (No. 2) 1983.

The regulations are to expire with the close of 18 October 1984.

The main change is in the definition of the term "financial service". The following services cease to be financial services for the purposes of the regulations, namely,—

- (a) The lending of money:
- (b) The granting of credit:
- (c) The depositing of money with any person:
- (d) The buying, whether as principal or agent, of any credit instrument from any person:
- (e) The discounting, whether as principal or agent, of any credit instrument:
- (f) The provision of credit under any hire purchase agreement or under any contract under which a person bails or agrees to bail goods (whether or not with an option to purchase).

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Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 19 July 1984.

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