

1984/26



**THE FINANCIAL SERVICES REGULATIONS (NO. 2) 1983,
AMENDMENT NO. 1**

DAVID BEATTIE, Governor-General

ORDER IN COUNCIL

At the Government Buildings at Wellington this 20th day
of February 1984

Present:

THE RIGHT HON. D. S. THOMSON 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.

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REGULATIONS

1. Title—These regulations may be cited as the Financial Services Regulations (No. 2) 1983, Amendment No. 1, and shall be read together with and deemed part of the Financial Services Regulations (No. 2) 1983* (hereinafter referred to as the principal regulations).

2. Commencement and expiry—(1) These regulations shall come into force on the 21st day of February 1984.

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

3. Commencement and expiry of principal regulations—Regulation 2 (2) of the principal regulations is hereby amended by omitting the words “29th day of February 1984”, and substituting the words “31st day of August 1984”.

4. Interpretation—Regulation 3 (1) of the principal regulations is hereby amended by inserting, before the definition of the expression “Commerce Commission”, the following definition:

“‘Authority’ means the Financial Services Price Review Authority established by regulation 11 of these regulations.”.

5. Criteria to be observed by Reserve Bank and Authority—The principal regulations are hereby amended by revoking regulation 9, and substituting the following regulation:

“9. The Reserve Bank and the Authority, in exercising their respective powers under regulations 6 and 11c 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.”

6. New regulations substituted—(1) The principal regulations are hereby amended by revoking regulation 11, and substituting the following regulations:

“11. **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.

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

“11B. **Seal**—The Authority shall have a seal, which shall be judicially noticed by all Courts for all purposes.

“11C. **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.

“11D. **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 11C 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 11C 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.

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

(2) Regulation 6 (3) of the principal regulations is hereby consequentially amended by omitting the expression "regulation 11", and substituting the expression "regulation 11c".

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 21 February 1984, amend the Financial Services Regulations (No. 2) 1983.

Regulation 3 amends the expiry date of the regulations from the close of 29 February 1984 to the close of 31 August 1984.

Regulations 4 to 6 substitute a new review procedure for suppliers who are dissatisfied with any decision of the Reserve Bank under these regulations. The new procedure is similar to that provided in the Economic Stabilisation (Prices) Regulations 1983.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 21 February 1984.

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