

1972/78



THE INTEREST ON DEPOSITS REGULATIONS 1972,
AMENDMENT NO. 1

ARTHUR PORRITT, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington this 17th day of April 1972

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to 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.

REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Interest on Deposits Regulations 1972, Amendment No. 1, and shall be read together with and deemed part of the Interest on Deposits Regulations 1972* (hereinafter referred to as the principal regulations).

(2) These regulations shall come into force on the day after the date of their notification in the *Gazette*.

2. Interpretation—(1) Regulation 2 (1) of the principal regulations is hereby amended by revoking the definition of the term “interest”, and substituting the following definitions:

“‘Interest’ includes any sum (other than the amount received by the borrower), whether called a dividend or a premium or by any other name whatsoever, and any discount, paid or given by a borrower in addition to or instead of interest, in respect of money borrowed under a contract of deposit, whether such sum or discount is paid or given before or after the receipt of the amount borrowed or on or after repayment of the whole or any part of the amount borrowed; and where any such sum or discount is paid or given in addition to interest, whether it is paid or given at the same time or not, it shall be treated as part of that interest for the purpose of determining the maximum rate of interest that may be paid under these regulations:

“‘Investment’ means—

“(a) The lending of money, with or without security; or the giving of credit, with or without security; or

“(b) The financing or discounting of hire purchase agreements or credit sale agreements, within the meaning of the Finance Companies (Investment) Regulations (No. 2) 1969*, or of transactions which by virtue of regulation 5 (2) of those regulations are treated as hire purchase agreements or credit sales agreements; or

“(c) The paying of sums as consideration for the assignment, to the payer, of debts or other obligations owing or due to the person to whom the consideration is paid; or

“(d) The purchasing of any chattels personal (other than money or things in action) for the purpose of entering into agreements for the bailment of those chattels under which the bailee will have the right to their exclusive possession for any period exceeding 3 months:”.

(2) The said regulation 2 (1) is hereby further amended by revoking the definition of the term “trading company”, and substituting the following definition:

“‘Trading company’ means any person who is engaged in any profession or in any trade or business and whose principal business is not the investment of borrowed money; and includes any person carrying on business as a stock and station agent:”.

(3) Regulation 2 of the principal regulations is hereby further amended by inserting, after subclause (2), the following subclause:

“(2A) Without prejudice to subclause (2) of this regulation, if in respect of any person who is for the time being a trading company the Minister is satisfied that at any time since the commencement of these regulations the investment of borrowed money has become a substantial part of that person’s business, the Minister may in his discretion declare that person to be an investment society, and not a trading company, for the purposes of these regulations. Any such declaration shall have effect accordingly, notwithstanding anything in the definitions of the terms ‘investment society’ and ‘trading company’ in subclause (1) of this regulation. Any such declaration shall take effect on its making or on such later date as may be specified in the declaration.”

(4) Regulation 2 of the principal regulations is hereby further amended by omitting from subclause (3) the words “trading company”, in both places where those words appear, and substituting in each case the words “deposit-holding body”.

3. Application of principal regulations—Regulation 3 of the principal regulations is hereby amended by revoking subclause (2), and substituting the following subclause:

“(2) These regulations shall not apply to money received or owing by a trading company under a contract of deposit if the contract of deposit is secured, by a valid and enforceable mortgage, instrument by way of security, or other charge over any property, assets, or undertaking (not being any property, assets, or undertaking of an investment society), to such an extent that at the time when the security

*S.R. 1969/219

Amendment No. 1: S.R. 1970/148

is given, and at the time of any subsequent renewal or variation of the security, the proceeds of its enforcement would be sufficient to yield to the lender the amount of the money so received or owing."

4. Maximum rate of interest on deposits—(1) Regulation 4 (2) of the principal regulations is hereby amended by adding the following proviso:

"Provided that, for the said purposes,—

"(a) If on notice or demand the deposit is repaid before the end of the stated period, it shall be deemed to have been a deposit for the period beginning with the day after the date of the notice or demand and ending with the date of repayment:

"(b) If the deposit is repaid without notice or demand, it shall be deemed to have been a deposit repayable at short call."

(2) Regulation 4 of the principal regulations is hereby further amended by adding the following subclause:

"(3) For the purposes of the said Schedule, if a deposit repayable at a fixed date is repaid before that date it shall be deemed to have been a deposit for the period during which the deposit was actually held."

(3) The amendments made by this regulation shall apply only to contracts of deposit made after the commencement of the principal regulations.

5. Evasion of regulations—The principal regulations are hereby amended by inserting, after regulation 4, the following regulation:

"4A. No person shall enter into any transaction or make any contract or arrangement, whether orally or in writing, for the purpose of or having the effect of, in any way, directly or indirectly, defeating, evading, or circumventing the operation of these regulations in any respect."

P. J. BROOKS,
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 amend the Interest on Deposits Regulations 1972.

Regulation 2 (1) substitutes a new definition of "interest" so as to include discounts and premiums paid or given at any time in connection with a contract of deposit. It also inserts a definition of "investment", for the purposes of the definitions of "investment society" and "trading company".

Regulation 2 (2) rewrites the definition of "trading company" so as to distinguish it more clearly from an "investment society".

Regulation 2 (3) gives the Minister of Finance a discretion to declare a trading company to be an investment society for the purposes of the principal regulations if he is satisfied that since the commencement of the principal regulations the investment of borrowed money has become a substantial part of the trading company's business.

Regulation 2 (4): Under regulation 2 (3) of the principal regulations, money owing by a trading company and, by agreement, bearing interest until repayment is treated as money deposited under a contract of deposit. The amendment made by this subclause extends this to investment societies as well as trading companies.

Regulation 3 revokes the existing exemption for trading companies of certain contracts of deposit, and replaces it by a single exemption for contracts of deposit secured by a valid and enforceable mortgage, instrument by way of security, or other charge over any property, assets, or undertaking (not being any property, assets, or undertaking of an investment society) to such an extent that when the security is given, and at the time of any subsequent renewal or variation of it, the proceeds of its enforcement would be sufficient to yield to the lender the amount owing.

Regulation 4 (1): The effect of this amendment is that if a deposit repayable at the end of a period of notice required by the contract is repaid before the end of that period the maximum rate of interest that may be paid is the rate (as set out in the Schedule to the principal regulations) appropriate to a deposit for the actual period of notice given; and if it is repaid without notice the rate is that fixed for a deposit repayable at short call.

Regulation 4 (2): The effect of this amendment is that if a deposit repayable at a fixed date is repaid before that date the maximum rate of interest that may be paid is the rate appropriate to the period during which the deposit was actually held.

Regulation 5: The effect of the new regulation 4A inserted by this regulation is that it will be an offence for any person to enter into any transaction, contract, or arrangement for the purpose of, or having the effect of, directly or indirectly defeating, evading, or circumventing the operation of any of the principal regulations.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 18 April 1972.

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