



ANALYSIS

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1983, No. 59

An Act to make provision with respect to public finances and other matters [7 December 1983]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title and commencement—(1) This Act may be cited as the Finance Act 1983.

(2) Except as provided in section 2 (2) of this Act, this Act shall come into force on the 1st day of July 1984.

PART I

ECONOMIC STABILISATION

2. This Part to be read with Economic Stabilisation Act 1948—(1) This Part of this Act shall be read together with and deemed part of the Economic Stabilisation Act 1948 (in this Part referred to as the principal Act).

(2) This Part of this Act shall come into force on the day on which this Act receives the Governor-General's assent.

3. Interpretation—(1) In this Part of this Act, unless the context otherwise requires,—

“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:

“Interest”, in relation to any loan, includes—

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

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

“Mortgage loan” means any loan which is secured, in whole or in part, or is to be secured, in whole or in part, by way of a mortgage over property:

“Property” means—

(a) Any estate or interest in land; and

(b) Any estate or interest in any shares in, or licence granted by, a flat or office owning company as defined in Part I of the Companies Amendment Act 1964.

(2) Notwithstanding the definition of the term “interest” in subsection (1) of this section, any stabilisation regulations may prescribe kinds of amounts that, in relation to mortgage loans or any class or classes of mortgage loans, are not to be included within the term “interest” for the purposes of those regulations or of any provision of those regulations.

(3) Notwithstanding the definition of the term “mortgage loan” in subsection (1) of this section, any stabilisation regulations may provide that a lender who—

(a) Extends or renews or agrees to extend or renew the term of any mortgage loan (other than pursuant to an obligation imposed by or pursuant to the terms of the mortgage loan); or

(b) Agrees to allow a mortgage loan to run on for a period of 6 months or more beyond the expiry of its term,— shall be deemed to make a mortgage loan.

4. Stabilisation regulations in respect of mortgage loans—(1) Without limiting the generality of section 11 of the principal Act, it is hereby declared that stabilisation regulations that regulate, control, or adjust, or provide for the regulation, control, or adjustment of,—

- (a) The rates of interest payable in respect of mortgage loans or any class or classes of mortgage loans; or
 - (b) The finance rates of any mortgage loans or any class or classes of mortgage loans; or
 - (c) Both,—
- may reduce, or require that a reduction be made in, all or any of those rates.

(2) Notwithstanding anything in section 11 of the principal Act or in subsection (1) of this section, the only circumstances in which any provision of any such stabilisation regulations may, in the case of mortgage loans in existence when the provision comes into force, reduce, or require that a reduction be made in, all or any of the rates mentioned in subsection (1) of this section shall be those circumstances set out in subsections (3) and (4) of this section.

(3) Any such provision of any such stabilisation regulations may, in relation to a mortgage loan in existence when the provision comes into force, reduce, or require that a reduction be made in, all or any of the rates mentioned in subsection (1) of this section where—

- (a) The terms of the mortgage loan expressly provide that the rate of interest or the finance rate or both may be altered as a result of a discretionary review that is required by the terms of the mortgage to be undertaken—
 - (i) At a specified time; or
 - (ii) Upon the happening of a specified event or events or class of events; and
- (b) That time arrives or that event occurs or those events occur or that class of events occurs.

(4) Any such provision of any such stabilisation regulations may, in relation to a mortgage loan in existence when the provision comes into force, reduce, or require that a reduction be made in, all or any of the rates mentioned in subsection (1) of this section where—

- (a) The terms of a mortgage loan expressly provide that the rate of interest or the finance rate or both may be altered as a result of a discretionary review that may be undertaken—
 - (i) At the option of the borrower or the lender or both; or
 - (ii) At the option of one party with the agreement of the other; and
- (b) That option is duly exercised.

(5) Notwithstanding anything in section 11 of the principal Act or in subsections (1) to (4) of this section, no such provision of any such stabilisation regulations may, in relation to a mortgage loan in existence when the provision comes into force, reduce, or require that a reduction be made in, all or any of the rates mentioned in subsection (1) of this section—

- (a) Where the terms of the mortgage loan do not provide for a decrease in the rate of interest or the finance rate or both as a result of a discretionary review; or
- (b) As a result of a review which is provided for in the terms of the mortgage loan and which is held, in accordance with those terms,—
 - (i) Only in extraordinary or emergency situations; or
 - (ii) Only because (for reasons outside the reasonable control of the lender and the borrower) it has become impossible or impracticable to ascertain or set a rate of interest for the mortgage loan in accordance with those terms.

(6) Notwithstanding anything in the Reserve Bank of New Zealand Act 1964 (including, in particular, sections 34AA (3) and 48), stabilisation regulations may have effect in respect of mortgage loans or any class or classes of mortgage loans made by financial institutions.

(7) Notwithstanding anything in section 11 of the principal Act or in subsections (1) to (6) of this section, where the terms of any mortgage loan expressly limit by reference to a stated percentage or a stated amount the extent to which the rate of interest or the finance rate or both may be reduced during the currency of the loan, nothing in any such stabilisation regulations shall require that rate of interest or finance rate or both to be reduced to a greater extent.

(8) Stabilisation regulations—

- (a) Which are made after the commencement of this Act and before the 8th day of December 1983; and
- (b) Which regulate, control, or adjust, or provide for the regulation, control, or adjustment of,—
 - (i) The rates of interest payable in respect of mortgage loans or any class or classes of mortgage loans; or
 - (ii) The finance rates of any mortgage loans or any class or classes of mortgage loans; or
 - (iii) Both,—

may come into force on or after the 10th day of November 1983, and may revoke any of the provisions of the Financial

Services Regulations (No. 2) 1983 that relate to private mortgage loans and the whole of the Financial Institutions (Mortgage Loans) Regulations (No. 2) 1983 (which were made under the Reserve Bank of New Zealand Act 1964).

(9) Stabilisation regulations may exempt, or provide for the exemption of, any mortgage loan or any class or classes of mortgage loans from the regulations or any provision of the regulations.

5. Transitional provisions—(1) Where, before the 10th day of November 1983, any person (in this subsection referred to as “the lender”)—

(a) Has made an offer to make a mortgage loan to any person; or

(b) Has entered into a contract to make a mortgage loan to any person,—

any mortgage loan made by the lender to that person on or after the 10th day of November 1983 pursuant to that offer or contract or in terms of that offer or contract shall, for the purposes of any regulations to which section 4 (8) of this Act applies, be deemed to be a mortgage loan in existence when those regulations come into force.

(2) Where, before the 10th day of November 1983, the lender has, in accordance with the terms of a mortgage loan, notified the borrower that the rate of interest payable in respect of the mortgage loan is to be altered on or after that date, nothing in any stabilisation regulations shall prevent the alteration to which the notice relates taking place in accordance with the terms of the mortgage loan.

(3) Where, at any time in the period beginning on the 10th day of November 1983 and ending with the close of the 17th day of November 1983, the lender under any mortgage loan notifies the borrower that the rate of interest payable in respect of the mortgage loan is to be reduced on or after the date on which the notice is given, nothing in any stabilisation regulations shall prevent the reduction to which the notice relates taking place.

PART II

REPEALS

6. Repeal of National Savings Act 1940—(1) The following enactments are hereby repealed:

(a) The National Savings Act 1940 (hereafter in this section referred to as the principal Act):

(b) The Finance Act (No. 3) 1944:

(c) Section 3 of the Finance Act 1956:

(d) The National Savings Amendment Act 1959:

(e) The National Savings Amendment Act 1960.

(2) Every notice under section 4 or section 5 of the principal Act is hereby revoked.

(3) Except as provided in subsection (4) of this section, neither the repeal by subsection (1) of this section of the enactments specified in that subsection nor the revocation by subsection (2) of this section of the notices referred to in that subsection shall affect the rights of any person in relation to any investment made at any time before the commencement of this Act under the principal Act.

(4) Where any money invested in a National Savings Investment Account under the principal Act has not before the 1st day of July 1985 been withdrawn by the person entitled to it, the bank concerned shall continue to hold that money until it is withdrawn, and upon its withdrawal shall pay to the person withdrawing it interest at the rate of 3½ percent per year, compounded annually.

(5) All money paid by the Postmaster-General in respect of investments made under the principal Act shall be paid out of the Post Office Account referred to in section 169 of the Post Office Act 1959.

7. Repeals and savings—(1) The enactments specified in the Schedule to this Act are hereby repealed.

(2) The repeal by subsection (1) of this section of subsection (2) of section 2 of the Finance Act 1982 shall not affect the validity of anything validated and deemed to have been lawful by that subsection.

SCHEDULE

Section 7 (1)

ENACTMENTS REPEALED

- 1961, No. 10—The Motor Spirits Duty Act 1961: The Sixth Schedule.
 1974, No. 4—The Customs Acts Amendment Act 1974: Part IV.
 1975, No. 3—The Customs Acts Amendment Act 1975: The First and Second Schedules.
 1976, No. 5—The Customs Acts Amendment Act 1976: The First Schedule.
 1976, No. 142—The Customs Acts Amendment Act (No. 2) 1976: Section 33.
 1978, No. 2—The Customs Acts Amendment Act 1978: Part II.
 1978, No. 60—The Customs Acts Amendment Act (No. 2) 1978: Part III.
 1981, No. 6—The Customs Acts Amendment Act (No. 2) 1981: Part IV.
 1982, No. 122—The Finance Act 1982: Sections 2 (2) and 3 and the Schedule.

Part I of this Act is administered in the Department of Trade and Industry. The balance of the Act is administered in the Treasury.
