1964/194

THE EXCHANGE CONTROL (OVERSEAS REMUNERATION) REGULATIONS 1964

BERNARD FERGUSSON, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington this 9th day of December 1964

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 Exchange Control (Overseas Remuneration) Regulations 1964.

(2) These regulations shall be deemed to have come into force on the 16th day of October 1964.

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

"The Act" means the Reserve Bank of New Zealand Act 1964:

"Current rate of exchange" means a rate of exchange for the time being fixed or approved by the Reserve Bank pursuant to the Act:

"Money" includes the bank notes and other currency, postal notes, and money orders of New Zealand or any other country; and also includes promissory notes and bills of exchange:

"Person" includes a corporation sole and also a body of persons, whether incorporated or not:

"Remuneration" includes—

(a) The payment or provision of any money; or

(b) The crediting of any sum in any account at any bank or with any person; or

(c) The acquisition or provision of any securities, or any real or personal property, or of any right thereto or interest therein (whether actual or contingent); or

(d) Any benefit, whether by way of the doing of work or the performance of services or otherwise, under any contract, agreement, arrangement, scheme, or transaction of any kind (whether or not it is enforceable or intended to be enforceable by legal proceedings):

"Reserve Bank", or "Bank", means the Reserve Bank of New Zealand constituted under the Act:

"Securities" includes shares, stock, bonds, debentures, debenture stock, mortgages, liens, Treasury bills, coupons or warrants representing dividends or interest, and life or endowment insurance policies, in whatever currency the securities are expressed and whether they are situated in New Zealand or elsewhere; and also includes any document or means whereby the right to the ownership or provision of any money or security, or any interest therein, may be exercised; but does not include promissory notes or bills of exchange.

(2) For the purposes of these regulations, an individual shall be deemed to be ordinarily resident in New Zealand at any time if at that time—

(a) He is domiciled in New Zealand; or

(b) He is residing in New Zealand and his usual place of abode is, and has been for the immediately preceding period of 12 months, in New Zealand, whether or not he has been occasionally or temporarily absent from New Zealand during that period.

(3) For the purposes of these regulations—

(a) A body corporate shall be deemed to be ordinarily resident in New Zealand if it is incorporated in New Zealand or has its head office in New Zealand; and "head office", in relation to a body corporate, means the centre of its administrative management:

(b) Where any body corporate incorporated outside New Zealand and carrying on business through a branch or branches in New Zealand does not have its head office in New Zealand, each such branch shall be deemed to be a separate person and shall, together with the person in New Zealand for the time being having control of the business in New Zealand, be deemed to be ordinarily resident in New Zealand, and such persons shall in respect of the branch be jointly and severally liable accordingly; but nothing in this paragraph shall be construed to relieve the body corporate from any obligation or liability to any penalty under the Act or under these regulations.

3. Acquisition by Reserve Bank of overseas remuneration for work or services provided in New Zealand for overseas residents—(1) Where at any time after the commencement of these regulations any person ordinarily resident in New Zealand receives or becomes entitled to receive outside New Zealand any remuneration for any work done or to be done, or for any services performed or to be performed, wholly or partly in New Zealand (whether by him or by any other person) for any person not ordinarily resident in New Zealand, he shall forthwith—

(a) If the remuneration is in the form of overseas money or of a credit lodged with an overseas bank, offer it or cause it to be offered to the Reserve Bank:

(b) If it is not in either of those forms, convert it or cause it to be converted into the equivalent value in one of those forms and offer it or cause it to be offered to the Bank in that form.

(2) Where the Bank accepts any remuneration offered to it under this regulation it shall forthwith pay in New Zealand to the person by or on whose behalf it is so offered, or to such other person as he may direct in writing, the equivalent in New Zealand currency of that remuneration, at the current rate of exchange.

4. Exemptions—The Bank may by notice in writing to any person, or by notice in the *Gazette* applying to any class of persons, exempt that person or class of persons, either generally or in respect of any specified transaction or any specified class or classes of transactions, from the application of any of the foregoing provisions of these regulations.

5. Delegation of Bank's powers or functions under these regulations—(1) The Bank may from time to time, by writing under its common seal, delegate to any person any of its powers or functions under these regulations.

(2) Any delegation under this regulation may be made to a specified person or to persons of a specified class, or may be made to the holder for the time being of a specified office or appointment or to the holders of offices or appointments of a specified class.

(3) Any such delegation may be made subject to such conditions and restrictions as the Bank thinks fit, and may be made either generally or in relation to any particular matter.

(4) Subject to any general or special directions given or conditions or restrictions imposed by the Bank, the person to whom any powers or functions are so delegated may exercise those powers or functions in the same manner and with the same effect as if they had been conferred directly by these regulations and not by delegation.

(5) Every person purporting to act pursuant to any delegation under this regulation shall be presumed to be acting in accordance with the terms of the delegation, in the absence of proof to the contrary.

(6) Any delegation under this regulation may be revoked at any time.

(7) The delegation of any power or function by the Bank shall not prevent the exercise of that power or function by the Bank.

6. Granting or refusal of exemption—(1) Every person who applies to the Bank or to any other person for any exemption under these regulations shall furnish such information and particulars and in such form as the Bank or that other person may from time to time require.

(2) Subject to the provisions of these regulations, the Bank or other person in its or his discretion may refuse any such application, or may grant it wholly or partly and either unconditionally or upon or subject to such conditions as it or he thinks fit.

(3) Any exemption granted under these regulations may at any time be revoked by the Bank (whether or not it granted it) or by the other person (if any) by whom it was granted, and any condition upon or subject to which the exemption is granted may from time to time be varied, revoked, or added to by the Bank or by the other person (if any) who granted it.

7. Power of Bank to require information and production of books, etc.—If the Bank has reason to suspect that any person has committed an offence against these regulations, it may, by notice in writing, require that person or any other person, within such time as may be specified in the notice—

(a) To furnish to it any information, in relation to any transaction, which in the opinion of the Bank may furnish evidence in relation to that offence:

(b) To produce to it or as it directs any books or documents which may be in the possession or under the control of any such person and which in the opinion of the Bank may furnish evidence in relation to that offence.

8. Offences—Every person commits an offence, and shall be liable accordingly under section 52 of the Act, who—

(a) With intent to deceive, makes any false or misleading statement or any material omission in any offer or declaration made for the purposes of these regulations or in any communication with or application to the Bank or any other person (whether in writing or otherwise) for the purposes of these regulations:

(b) Resists, obstructs, or deceives any person who is exercising or attempting to exercise any power or function under these regulations:

(c) Without lawful excuse, acts in contravention of or fails to comply in any respect with any provision of these regulations or any direction, notice, requirement, or condition given or imposed under these regulations.

T. J. SHERRARD,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

The general effect of these regulations is that where any person ordinarily resident in New Zealand receives or becomes entitled to receive outside New Zealand any remuneration of any kind for work or services provided in New Zealand for a person not ordinarily resident in New Zealand, he is to offer it to the Reserve Bank in the form of overseas money or a credit at an overseas bank. If the Reserve Bank accepts the offer it is to pay in New Zealand the equivalent in New Zealand currency at the current rate of exchange.

Provision is made for exemptions and for the delegation of the Bank's powers or functions under the regulations.

Regulation 1: The regulations are deemed to have come into force on 16 October 1964.

Regulation 2 is an interpretation clause. The most important definitions are those of "money", "remuneration", and "securities". "Remuneration" includes money, credits with a bank or any person, securities, property, and property rights, and any benefit of any other kind.

Regulation 3 provides that where a person ordinarily resident in New Zealand receives or becomes entitled to receive outside New Zealand any remuneration for work or services performed wholly or partly in New Zealand (whether by him or anyone else) for a person not ordinarily resident in New Zealand, he is to offer it to the Reserve Bank in the form of overseas money or a credit with an overseas bank. If the Reserve Bank accepts the offer it is to pay in New Zealand to that person or his nominee the equivalent in New Zealand currency at the current rate of exchange.

Regulation 4 authorises the Reserve Bank to exempt any person or class of persons, either generally or in respect of any specified transaction or class of transactions, from the foregoing provisions.

Regulation 5 authorises the Reserve Bank to delegate its powers or functions under the regulations.

Regulation 6 deals with the granting or refusal of consents or exemptions, and authorises the Reserve Bank to impose conditions.

Regulation 7 empowers the Bank, where it has reason to suspect that an offence has been committed against the regulations, to require the furnishing of information and the production of books or documents.

Regulation 8 prescribes offences against the regulations. Section 52 of the Reserve Bank of New Zealand Act 1964 sets out the penalties for such offences, which are—

(a) For an individual, imprisonment up to 12 months or a fine up to £1,000 (or £200 on summary conviction under sections 6 and 7 of the Summary Proceedings Act 1957) and a further fine up to £500 a day for a continuing offence:

(b) For a body corporate, a fine up to £2,000 (or £200 on summary conviction) and a further fine up to £1,000 a day for a continuing offence—

and forfeiture of any currency in respect of which a wilful offence has been committed and which is found to be the property of the convicted individual or body corporate.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 10 December 1964.

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