



ANALYSIS

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1973, No. 16

An Act to amend the Reserve Bank of New Zealand Act 1964 so as to reaffirm the sovereign right of the Crown to control currency and credit for the purpose of maintaining a stable value for money and in the public interest, and to define more fully and extend the functions, powers, and duties of the Reserve Bank of New Zealand [18 August 1973]

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 Reserve Bank of New Zealand Amendment Act 1973, and shall be read together with and deemed part of the Reserve Bank of New Zealand Act 1964 (hereinafter referred to as the principal Act).

(2) Section 7 of this Act shall be deemed to have come into force on the 22nd day of June 1972.

(3) Except as provided in subsection (2) of this section, this Act shall come into force on the 1st day of September 1973.

2. Interpretation—(1) Section 2 of the principal Act is hereby amended by inserting, in their appropriate alphabetical order, the following definitions:

“‘Authorised money-market dealer’ means a person (including a body of persons, whether incorporated or not) for the time being approved by the Reserve Bank, by notice in the *Gazette*, as a money-market dealer for the purposes of this Act:

“‘Credit instrument’ means any agreement (whether in writing or not) acknowledging an obligation to pay a sum or sums of money on demand or at any future time or times:

“‘Financial institution’ means any person (including a body of persons, whether incorporated or not) who in the course of business—

“(a) Borrows money or accepts deposits (whether on demand or for a fixed term) or receives credit (other than normal trade credit) or sells any credit instrument; and also

“(b) Lends money or grants credit (other than normal trade credit) or buys or discounts any credit instrument;—

and, without limiting the generality of the foregoing provisions of this definition, includes—

“(c) Any person (including a body of persons, whether incorporated or not) who acts as agent or intermediary in any of the transactions aforesaid; and

“(d) Any trustee savings bank established under the Trustee Savings Banks Act 1948; and

“(e) Any private savings bank as defined in section 2 of the Private Savings Banks Act 1964; and

“(f) Any life insurance company, being a company as defined in section 2 of the Life Insurance Act 1908; and includes any branch, division, or office of any such company; and

“(g) Any building society as defined in section 2 of the Building Societies Act 1965; and

“(h) Any specified person or class of persons (including a body or bodies of persons, whether incorporated or not) engaged in the business of borrowing or lending money or buying, selling, or otherwise dealing in credit instruments who is or are declared by the Governor-General, by Order in Council, to be a financial institution or institutions for the purposes of this Act:

“‘Trade credit’ means credit given or, as the case may require, received in the course of business in relation to the sale or purchase of goods or the provision of services:”.

(2) Section 2 of the principal Act is hereby further amended by repealing the definition of the expression “trading bank”, and substituting the following definition:

“‘Trading bank’ means any bank named in the First Schedule to this Act.”

3. Constitution of Bank—(1) Section 4 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) The Bank shall consist of 10 directors, being—

“(a) The Governor:

“(b) The Deputy Governor:

“(c) The Secretary to the Treasury:

“(d) Seven other directors (in this Act referred to as appointed directors), to be appointed from time to time by the Governor-General in Council. Directors appointed under this paragraph shall include one or more persons having industrial or commercial experience.”

(2) Section 4 of the principal Act is hereby further amended by repealing subsection (3).

4. Executive committee of Bank—The principal Act is hereby further amended by repealing section 6, and substituting the following section:

“6. (1) There shall be an executive committee of the Bank, consisting of the Governor, the Deputy Governor, the Secretary to the Treasury, and one other director designated by the Bank with the approval of the Minister:

“Provided that should any appointed director of the Reserve Bank be for the time being also a director of the Bank of New Zealand, that director shall, so long as he remains a director of the Bank of New Zealand, be deemed to be the director designated by the Reserve Bank with the approval of the Minister to be a member of the executive committee.

“(2) In the absence from any meeting of the executive committee of the director designated by the Reserve Bank, another appointed director nominated by the Bank with the approval of the Minister to be the deputy of the designated director may attend the meeting in his place, and while so attending shall be deemed to be a member of the committee.

“(3) The committee shall be competent to deal with any matter within the competence of the Bank, and may at any time, and shall, at the request of the Minister, confer with the Minister on any matter coming within the scope of section 8 of this Act.

“(4) Every decision of the executive committee shall be placed before the Bank at its next meeting.

“(5) The Governor, or in his absence the Deputy Governor, shall be Chairman of the executive committee, and shall convene meetings of the committee whenever he deems it necessary to do so.

“(6) No business shall be transacted by the executive committee unless the Governor, or the Deputy Governor, and the director designated by the Bank, or the deputy of that director, are present.”

5. Primary functions of Bank—The principal Act is hereby further amended by repealing section 8, and substituting the following section:

“8. (1) The primary functions of the Bank shall be—

“(a) To act as the central bank for New Zealand; and

“(b) To ensure that the availability and conditions of credit provided by financial institutions are not inconsistent with the sovereign right of the Crown to control money and credit in the public interest; and

“(c) To advise the Government on matters relating to monetary policy, banking, credit, and overseas exchange; and

“(d) Within the limits of its powers, to give effect to the monetary policy of the Government as communicated in writing to the Bank under subsection (2) of this section, and to any resolution of Parliament in relation to that monetary policy.

“(2) For the purposes of this Act, the Minister may from time to time communicate to the Bank the monetary policy of the Government, which shall be directed to the maintenance and promotion of economic and social welfare in New Zealand, having regard to the desirability of promoting the highest level of production and trade and full employment, and of maintaining a stable internal price level.

“(3) The Bank shall, as directed by the Minister, regulate and control on behalf of the Government—

“(a) Money, banking, banking transactions, any class of transactions of financial institutions, credit, currency, and the borrowing and lending of money:

“(b) Rates of interest in respect of such classes of transactions as may from time to time be prescribed:

“(c) Overseas exchange, and overseas exchange transactions.

“(4) The Bank shall make such loans to the Government and on such conditions as the Minister decides from time to time, in order to ensure the continuing full employment of labour and other resources of any kind.”

6. Reproduction or imitation of bank notes—Section 24 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$200 who, without the prior authority of the Reserve Bank, makes, designs, engraves, prints, reproduces in any manner, or uses, issues, or publishes in any form, whether by advertisement or otherwise, any thing resembling or having a likeness to the whole or any part of a bank note. On the conviction of a person for any such offence, it shall be lawful for the Court to order the destruction of the thing in respect of which the offence was committed, and any copies thereof, and any plates, blocks, dies, and other instruments used or capable of being used for printing or reproducing any such thing which are in the possession of the offender.”

7. Appreciation or depreciation of assets of Bank on alteration of exchange rate—(1) The principal Act is hereby further amended by repealing section 26, and substituting the following section:

“26. (1) In the event of an alteration at any time in the relative par values established with the International Monetary Fund (in this section referred to as the Fund) of the New Zealand dollar and any other currency, or in the basic rate of exchange, as specified by the Minister under paragraph (b) of subsection (2) of this section, between the New Zealand dollar and any other currency,—

“(a) The Bank shall pay into the Public Account a sum equal to the amount of any appreciation of the Bank’s assets, after deducting the amount of any appreciation of its liabilities, resulting from such alteration; or, as the case may require,

“(b) The Minister shall, without further appropriation than this section, pay to the Bank out of the Public Account a sum equal to the amount of any depreciation of the Bank’s assets, after deducting the amount of any depreciation of its liabilities, resulting from such alteration:

“Provided that if the net settlement arising from the application of this subsection in any financial year is less than \$500,000, no such payment shall be made by the Bank or the Minister, as the case may be, in respect of that year.

“(2) For the purposes of this section—

“(a) The assets and liabilities of the Bank at the time of any such alteration shall be deemed to include all overseas assets and liabilities that the Bank has agreed to acquire or sell, or in respect of which it has entered into any form of indemnity relating to such alterations; and

“(b) The Minister may from time to time, after consultation with the Governor of the Bank, specify by notice in writing to the Bank a basic rate of exchange between the New Zealand dollar and any other currency,—

“(i) For which no fixed par value is established with the Fund at the time of notice; or

“(ii) Which has been allowed to depart from its par value established with the Fund to an extent which exceeds the permissible limits agreed to under the rules of the Fund; or

“(iii) From which the New Zealand dollar has been permitted to depart by more than the permissible limits agreed to under the rules of the Fund; and

- “(c) Any sum payable by the Bank or the Minister under subsection (1) of this section shall be determined by the change in the New Zealand currency value of the Bank's overseas assets and liabilities, at the close of business on the last business day before the declaration of a new par value, or the specification for the time being of a basic rate of exchange by the Minister for any currency under paragraph (b) of this subsection, converted at the relative par value or at the rate specified by the Minister, immediately before and after the declaration of the new par value or such specification by the Minister, as the case may be:

“Provided that should a basic rate of exchange be specified by the Minister for any currency under paragraph (b) of this subsection and that currency subsequent to such specification regains a parity within the permissible limits of its declared par value under the rules of the Fund on any day, the agreed par value shall be deemed to have been declared on that day.

“(3) The Minister may from time to time borrow on the security of and charged upon the public revenues of New Zealand such sums of money as are required to be paid by him to the Bank under this section. All money borrowed under the authority of this subsection shall be borrowed under and subject to the provisions of the New Zealand Loans Act 1953, and shall, as and when borrowed, be paid to the Public Account.”

(2) Section 2 of the Reserve Bank of New Zealand Amendment Act 1968 is hereby consequentially amended by repealing subsections (2) to (5).

8. Temporary suspension of foreign exchange business—The principal Act is hereby further amended by inserting, after section 26 (as substituted by section 7 of this Act), the following section:

“26A. (1) Where he is satisfied that it is necessary or expedient in the public interest to do so, the Governor may

from time to time, with the prior consent of the Minister, by notice in writing to all trading banks or to all authorised dealers in foreign exchange, or to all trading banks and all such dealers, direct that—

“(a) Subject to any exceptions specified in the notice, no trading bank shall, except with permission granted by the Bank, effect until further notice, in the course of banking business, any foreign exchange transaction or foreign exchange transactions of such kinds as are specified in the notice:

“(b) Subject to any exceptions specified in the notice, no authorised dealer in foreign exchange shall, except with permission granted by the Bank, deal until further notice in any foreign exchange or foreign exchange of such kinds as are specified in the notice.

“(2) Every notice issued under subsection (1) of this section shall remain in force until it is revoked by further notice given in writing by the Governor to all trading banks or, as the case may be, to all authorised dealers in foreign exchange or to all trading banks and all such dealers.

“(3) An obligation on a person to do a thing on a day on which he is prevented from doing it by a notice under this section or is unable to do it by reason of any such notice shall be deemed to be complied with if he does it as soon as practicable after the notice is revoked.

“(4) Where any transaction to which a notice issued under this section applies is subject to the provisions of the Bills of Exchange Act 1908 or the Banking Act 1908, then, in relation to that transaction, every day on which the notice remains in force shall be deemed to be a non-business day for the purposes of the Bills of Exchange Act 1908.

“(5) For the purposes of this section—

“‘Authorised dealer in foreign exchange’ means any person (including a body of persons, whether incorporated or not) authorised by the Bank, pursuant to this Act or to regulations made under this Act, to deal in foreign exchange:

“‘Foreign exchange’ means foreign currency or foreign securities as defined in section 28 of this Act.”

9. Control of interest rates and lending of financial institutions—The principal Act is hereby further amended by inserting, after section 34, the following section:

“34A. (1) The Reserve Bank may from time to time make recommendations to any class or classes of financial institutions (other than trading banks) with respect to the policy to be followed in their business.

“(2) The Reserve Bank may, from time to time, with the consent of the Minister, where it is satisfied that it is necessary or expedient in the public interest to do so, by notice in writing to any class or classes of financial institutions (other than trading banks) give them directions as to the policy to be followed in relation to lending and investments. Without limiting the generality of the foregoing provisions of this subsection, directions under this subsection may relate to—

“(a) The aggregate amounts of lending and investments for the time being that the Bank considers appropriate:

“(b) The classes of loans that should be encouraged or restricted or refused, and the classes of investments that may or may not be made or held.

“(3) Nothing in this section shall—

“(a) Authorise the Reserve Bank to require any financial institution to disclose the identity of any particular customer; or

“(b) Affect the validity or enforceability, as between any financial institution and any other person, of any transaction.

“(4) The Governor-General may from time to time, by Order in Council, specify the rates of interest to be paid to or by financial institutions (other than trading banks). Different rates may be so specified according to the term of the obligation, or to different classes of deposits, borrowing, or lending as defined in the order, or to the amount of such deposit, borrowing, or lending.

“(5) If any financial institution without lawful justification or excuse fails to comply with any direction or order given or made under subsection (2) or subsection (4) of this section, it commits an offence, and is liable on summary conviction to a fine not exceeding \$4,000 and, if the offence is a continuing one, to a further fine not exceeding \$2,000 for every day on which the offence has continued.”

10. Supply of information by financial institutions—The principal Act is hereby further amended by inserting, after section 34A (as inserted by section 9 of this Act), the following section:

“34B. (1) The Reserve Bank may from time to time, with the consent of the Minister, by notice in writing to any financial institution (other than a trading bank), or by notice in the *Gazette* applying to any specified class of financial institution (other than a trading bank), require the institution or, as the case may be, institutions of that class to supply to the Bank such returns or information relating to the assets and liabilities of its business or their businesses as may be specified in the notice.

“(2) Nothing in this section shall authorise the Bank to require any financial institution to disclose the identity of any particular customer.

“(3) If without lawful justification or excuse any financial institution—

“(a) Fails to comply in any respect with any requirement of the Bank under subsection (1) of this section; or

“(b) Makes any return or furnishes any information required to be made or furnished under subsection (1) of this section which is incorrect in any material particular—

that institution commits an offence, and is liable on summary conviction to a fine not exceeding \$2,000 and, if the offence is a continuing one, to a further fine not exceeding \$1,000 for every day on which the offence has continued.”

11. Financial institutions to hold specified assets—The principal Act is hereby further amended by inserting, after section 34B (as inserted by section 10 of this Act), the following section:

“34C. (1) The Governor-General may from time to time, by Order in Council, require all or any specified class or classes of or any specified financial institutions (other than trading banks)—

(a) To hold balances at the Reserve Bank or a trading bank; or

(b) To hold Government or local authority securities; or

- (c) To hold assets of such kind or kinds as may be specified in the order, including balances at the Reserve Bank and a trading bank and Government and local authority securities, or any one or more of such balances or securities,—

of such minimum amount as is specified in the order:

“Provided that no order under this subsection shall require any building society that, by an Order in Council under section 63 of the Building Societies Act 1965, is designated as a society with which trustees may invest trust funds by way of deposit to hold a lesser amount of any asset than the amount prescribed for such asset by or pursuant to regulations made under the said section 63.

“(2) If any financial institution fails to comply with an order under this section, the Reserve Bank may, by notice in writing to that institution, direct that during a period specified in the direction that institution shall discontinue, or limit in any manner specified in the direction, the granting of credit or the making of investments, and shall not pay any dividend; and on the service of the notice on that institution it shall not be lawful for it to grant any credit or make any investments or pay any dividend in breach of that notice during the period so specified.

“(3) If any financial institution knowingly fails to comply with an order under subsection (1) of this section, it commits an offence and is liable on summary conviction to a fine not exceeding \$4,000 and, if the offence is a continuing one, to a further fine not exceeding \$2,000 for every day during which the offence has continued.”

12. Inspection of books of trading banks and other financial institutions and supply of information—(1) Section 35 of the principal Act is hereby amended by inserting in subsection (1) (except in paragraph (a)) and also in subsections (2) and (3), after the words “trading bank” wherever they occur, the words “or other financial institution”.

(2) Section 35 of the principal Act is hereby further amended by repealing paragraph (a) of subsection (1), and substituting the following paragraph:

“(a) The trading bank or financial institution has failed to comply with any provision of this Act, or of any regulations or Order in Council made thereunder, or of any regulations or Order in Council which

continue in force as if made under this Act pursuant to subsection (6) of section 14 of the Reserve Bank of New Zealand Amendment Act 1973, or of any notice, direction, or requirement given or imposed under such provision; or”.

(3) Section 35 of the principal Act is hereby further amended by repealing subsection (5), and substituting the following subsection:

“(5) Any trading bank or other financial institution commits an offence if, without lawful justification or excuse,—

“(a) It fails to comply with any requirement of the Reserve Bank under subsection (2) of this section; or

“(b) It makes any return or statement or furnishes any information required to be made or furnished which is incorrect in any material particular,—

and is liable on summary conviction to a fine not exceeding \$4,000 and, if the offence is a continuing one, to a further fine not exceeding \$2,000 for every day on which the offence has continued:

“Provided that nothing in this section shall authorise the inspection of any book or accounts containing information that will reveal the identity or affairs of any particular customer or require the furnishing of information with respect to the identity or affairs of any particular customer.”

13. Repealing provisions as to declaration of persons to be trading banks—The principal Act is hereby further amended by repealing section 36.

14. Consequential repeals and amendments, and savings—

(1) The principal Act is hereby further amended by repealing section 28A (as inserted by section 2 (1) of the Reserve Bank of New Zealand Amendment Act 1970) and sections 37 and 38.

(2) The enactments specified in the Schedule to this Act are hereby repealed.

(3) The Trustee Savings Banks Act 1948 is hereby amended—

(a) By inserting in subsection (1) of section 24, after the words “this Act”, the words “and of section 34c of the Reserve Bank of New Zealand Act 1964 (as inserted by section 11 of the Reserve Bank of New Zealand Amendment Act 1973)”:

- (b) By omitting from the proviso to subsection (2) of section 36B (as inserted by section 4 (1) of the Trustee Savings Banks Amendment Act 1957) the words "section 23 of this Act", and substituting the words "section 34A of the Reserve Bank of New Zealand Act 1964 (as inserted by section 9 of the Reserve Bank of New Zealand Amendment Act 1973)".
- (4) Section 17 of the Private Savings Banks Act 1964 is hereby amended by inserting in subsection (1), after the words "this Act" where they first occur, the words "and of section 34c of the Reserve Bank of New Zealand Act 1964 (as inserted by section 11 of the Reserve Bank of New Zealand Amendment Act 1973)".
- (5) The Building Societies Act 1965 is hereby amended—
- (a) By omitting from subsection (12) of section 57 (as added by section 6 of the Building Societies Amendment Act 1970) the words "subsections (3) to (7)", and substituting the words "subsections (3) to (6)":
- (b) By omitting from subsection (6) of section 58 the words "any such order, the society and", and substituting the words "any order under section 34A of the Reserve Bank of New Zealand Act 1964 (as inserted by section 9 of the Reserve Bank of New Zealand Amendment Act 1973)".
- (6) Every regulation or Order in Council made before the commencement of this Act under section 28A of the principal Act or under any enactment specified in the Schedule to this Act and in force immediately before the commencement of this Act shall continue in force after the commencement of this Act as if it had been made under the principal Act as amended by this Act.
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SCHEDULE

Section 14 (2)

ENACTMENTS REPEALED

- 1948, No. 62—The Trustee Savings Banks Act 1948: Section 23, subsection (4) of section 24 (as substituted by section 2 (1) of the Trustee Savings Banks Amendment Act 1969), subsections (2) and (3) of section 31 (as added by section 10 (3) of the Trustee Savings Banks Amendment Act 1964), section 34, and section 37A (as inserted by section 13 of the Trustee Savings Banks Amendment Act 1964. (Reprinted, 1971, Vol. 4, p. 2631.)
- 1964, No. 9—The Private Savings Banks Act 1964: Subsections (2) and (3) of section 5, section 14, subsection (3) of section 17 (as substituted by section 4 (1) of the Private Savings Banks Amendment Act 1972), and sections 18 and 20.
- 1964, No. 10—The Trustee Savings Banks Amendment Act 1964: Section 13. (Reprinted, 1971, Vol. 4, p. 2657.)
- 1965, No. 22—The Building Societies Act 1965: Section 55A (as inserted by section 5 of the Building Societies Amendment Act 1970), subsection (7) of section 57, and subsections (1) to (5) of section 58.
- 1969, No. 31—The Trustee Savings Banks Amendment Act 1969. (Reprinted, 1971, Vol. 4, p. 2660.)
- 1970, No. 2—The Reserve Bank of New Zealand Amendment Act 1970: Section 2.
- 1970, No. 117—The Building Societies Amendment Act 1970: Section 5.
- 1972, No. 122—The Private Savings Banks Amendment Act 1972: Section 4.

This Act is administered in the Reserve Bank of New Zealand.
