

## INTEREST RATE REGULATIONS

During November and December 1983, the Government introduced new measures affecting interest rates. These are summarised below:

### MORTGAGE INTEREST RATE CONTROLS

On 7 December 1983, the Government passed the Economic Stabilisation (Mortgage Loans) Regulations 1983 controlling mortgage interest rates. These regulations are backdated in effect to 10 November and replace other controls which came into force at that time, but which were shown to have some anomalies.

Prior to 10 November 1983, interest rates on mortgages and other forms of lending were controlled under the Financial Services Regulations (No. 2) 1982 which provided that a rate of interest could not be increased above the level being charged by that lender for loans of a like kind when the measures took effect (25 November 1981 for the major financial institutions, 23 June 1982 for moderately sized lenders and 4 August 1983 for most others). This allowed a lender to review the rates of older loans up to that level.

The Economic Stabilisation (Mortgage Loans) Regulations effectively remove mortgage lending from the Financial Services Regulations and control it separately. As from 10 November the maximum interest rate that may be charged on any new loan secured wholly or partly over real property (i.e. land and buildings) is 11 per cent per annum in the case of a first mortgage and 14 per cent per annum for any second or subsequent mortgage. These regulations exclude some kinds of transactions which may be secured over land — notably, any trading bank overdraft (which is controlled separately under the Reserve Bank Act — see below), any loan to a body corporate secured by way of a debenture but with no collateral mortgage, any loan made to a body corporate in terms of a prospectus approved for registration before 10 November and all overseas borrowing.

As well as restricting the rate that may be charged on any new mortgage loan, the regulations prevent the rate of interest being increased on any mortgage — except where a contract entered into before 10 November provides for automatic adjustment according to some formula or index, or where a penalty clause is invoked for late payment, or where the interest rate is already less than the maximum permitted rate (11 per cent per annum or 14 per cent per annum, as appropriate). The regulations also require a rate to be reduced to the maximum permitted rate where a review is undertaken in terms of a requirement in an existing mortgage contract, or where the lender chooses to exercise a review option in the contract. However, nothing in the regulations requires the rate to be reduced where the contract does not expressly provide for a reduction; neither do they require the rate to be reduced beyond any limit specified in the contract. Contracts in force on 10 November which provide for a new rate to be set in extraordinary or emergency situations may proceed according to the terms of the contract notwithstanding the regulations. Transitional provisions allow mortgage loans to be made after 10 November in terms of an offer or contract made before that date. Those provisions also allow any alteration to an interest rate notified

before 10 November and any reduction notified between 10 November and 17 November (when the enabling legislation was introduced into Parliament) to take effect according to the terms of that notice.

The expressions 'interest' and 'rate of interest' are defined in the regulations and parallel, as far as is practicable, the definition of 'finance rate' in the Credit Contracts Act 1981. The regulations expressly provide that when the finance rate in any mortgage loan does not exceed 11 per cent per annum in the case of a first mortgage, or 14 per cent per annum for a second or subsequent mortgage, the lender is deemed to have complied with the regulations. Thus, in these cases, the need to determine the 'rate of interest' (as defined in the regulations) does not arise.

The Economic Stabilisation (Mortgage Loans) Regulations 1983 are made under the Economic Stabilisation Act 1948, as amended by the Finance Act 1983 which was passed by Parliament on 6 December 1983. That Act authorised the backdating of the regulations to 10 November. Any type of lending which is not subject to the new regulations is still controlled as a 'financial service' within the Financial Services Regulations, the features of which were outlined in the December 1982 *Bulletin*.

### RESERVE BANK DIRECTIVE TO TRADING BANKS

The Economic Stabilisation (Mortgage Loans) Regulations 1983 specifically exclude trading bank overdraft lending, which is the subject of a directive issued under Section 34 of the Reserve Bank of New Zealand Act 1964. That directive, which was issued on 14 November 1983, requires that no new overdraft arrangements or increases in overdraft limits may be entered into when the security for the overdraft arrangement includes a charge over land, except at a rate of interest not exceeding 11 per cent for first mortgages or 14 per cent for second and subsequent mortgages. As was the case for mortgage loans, this directive excludes overdrafts secured by a debenture where the only charge over land is a general charge over the assets of the issuer of the debenture.

### REVOCATION OF THE INTEREST ON DEPOSIT REGULATIONS 1983

On 10 November 1983 the Government revoked the Interest on Deposit Regulations 1983. These regulations specified a schedule of maximum rates payable on deposits accepted by financial institutions. The regulations were originally introduced in June 1982 and were subsequently amended in July 1982 when new definitions of deposit, interest and rate of interest were published. The period for which the regulations were in force was later extended in June 1983.

These deposit regulations were no longer considered necessary because the rates paid by most financial institutions had fallen well below the specified maxima. As a result, deposit rates are now free from direct control, but they remain indirectly constrained by the controls on lending rates.