

**REPUBLIC OF CYPRUS**

**BANKING LAW**  
**(No 66(I) of 1997)**

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**by**  
**The Central Bank of Cyprus**

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# A LAW REGULATING THE BUSINESS OF BANKING

## PART I Preliminary

Short title.	1. This Law may be cited as the Banking Law, 1997.	
Interpretation.	2. In this Law, unless the context otherwise requires -	
Cap. 113 9 of 1968 76 of 1977 17 of 1979 105 of 1985 198 of 1986 19 of 1990 41(I) of 1994 15(I) of 1995 21(I) of 1997.	"approved auditor"	means a person qualified under section 155 of the Companies Law to be an auditor of a company other than an exempt private company and who is expressly authorised by the Central Bank;
	"bank"	means a body corporate licensed to carry on banking business under the provisions of this Law;
	"banking business"	means business carried on in the Republic or abroad from within the Republic consisting of lending of funds acquired from the assumption of obligations to the public, whether in the form of deposits, securities or other evidence of debt;
	"books or records"	means accounts, securities, deeds, forms and documents however produced and includes "books or records" stored in a computer;
	"branch"	means a place of business of a bank, at which banking business or the business of accepting deposits is carried on;
	"business of accepting deposits"	means the business of accepting deposits from the public in the Republic or the business of accepting deposits in the Republic from abroad;
	"Central Bank"	means the Central Bank of Cyprus;
	"chief	means a person who either alone or jointly

"executive"	with others is responsible under the immediate authority of the board of directors for the conduct of the business of a bank, and in the case of a bank other than a bank incorporated in the Republic, includes a person who either alone or jointly with others is responsible for the conduct of the business of the bank in the Republic or the conduct of the business of the bank abroad from within the Republic;
"computer"	means any electronic device for storing and processing information;
"control"	means in relation to a company -  (a) beneficial ownership by a person of its share capital or of its holding company which carries ten per cent or more of the voting power at any general meeting of the company or its holding company, or  (b) ability by a person to determine in any manner the election of a majority of the directors of the company or of its holding company;
"deposit"	means a sum of money paid or received on terms -  (a) under which it will be repaid, with or without interest or a premium, and either on demand or at a time or in circumstances agreed by or on behalf of the person making the payment and the person receiving it, but  (b) which are not referable to the sale or the supply of property or the provision of services or to the issue of debentures or shares;

<p>48 of 1963 10 of 1979 35 of 1990 233 of 1991 74(I) of 1992 64(I) of 1993 101(I) of 1994 99(I) of 1995.</p>	<p>"designated financial institution"</p>	<p>means an institution designated under the provisions of the Central Bank of Cyprus Law;</p>
	<p>"director"</p>	<p>means a person occupying the position of director of a bank or a person empowered to carry out substantially the same functions in relation to the management of the bank as those carried out by a director of a company and includes a person who has control over a bank or its holding company or a person in accordance with whose directions or instructions the directors of the bank or any of them are accustomed to act. However, a person is not deemed to be a director by reason only that the directors act on directions or instructions given by him in his professional capacity;</p>
	<p>"holding company" - "subsidiary company"</p>	<p>have the meaning assigned to them respectively by section 148 of the Companies Law, and additionally a company shall be deemed to be the subsidiary of another where in the opinion of the Central Bank the latter exercises substantial control over the former;</p>
	<p>"legal person"</p>	<p>includes a company or any association of persons incorporated either in the Republic or elsewhere;</p>
	<p>"licence"</p>	<p>means a licence to carry on banking business issued under this Law;</p>
	<p>"manager"</p>	<p>means the chief executive of a bank and any other person employed by it, who under the immediate authority of a director or of the chief executive exercises managerial functions or is responsible for maintaining accounts or other records of the bank;</p>
	<p>"Minister"</p>	<p>means the Minister of Finance;</p>

	"offshore bank"	means a bank the conditions to the licence of which restrict its business exclusively or predominantly to persons who are not permanent residents of the Republic and to currencies other than the Cyprus pound;
	"representative office"	means an office from which the interests of the entity to which it belongs are in any way promoted or assisted but at which no banking business or the business of accepting deposits is carried on;
Cap. 193.	"Trustee"	has the meaning assigned to this word by the Trustee Law.

## **PART II**

### **Licensing of Banks**

No banking business etc. except licence.	3.(1)	No person, other than a bank, shall engage in banking business or in the business of accepting deposits.
	(2)	Whenever the Central Bank has reasonable grounds to believe that any person, other than a bank, is carrying on or holds himself out as carrying on banking business or is engaged in the business of accepting deposits of money from the public, may, by a written notice to such person call upon him, to produce to an authorised officer of the Central Bank, within the period specified in the notice, any books or records specified in the notice to enable such officer to ascertain whether any business has been carried on which is prohibited in accordance with subsection (1).
Licence.	4.(1)	A licence to carry on banking business shall be issued only to a legal person established in the Republic under the Companies Law or under any other law or established in another country other than the Republic under comparable laws of the country concerned.
	(2)	Applications for a licence shall be presented by or on behalf of the applicant to the Central Bank together with the memorandum and the articles of association or other instrument constituting or defining the constitution of the body corporate and any other documents and information which the Central Bank may require.
	(3)	The Central Bank may, under this Law, with an adequately reasoned decision -

- (a) grant a licence without any condition or subject to such conditions as the Central Bank may consider proper to impose; or
  - (b) refuse to grant a licence.
- (4) Notwithstanding the provisions of subsection (3) the Central Bank may, amend or cancel whenever, either permanently or temporarily, any condition imposed on a licence, or impose any new conditions thereto.
- (5) The policy with respect of the granting of licences to carry on banking business is determined by the Central Bank after consultation with the Minister.

### **PART III**

#### **Use of the word "Bank" and Advertisements**

Restriction  
on use of  
the word  
"bank".

5. No person, other than a bank, shall use in any language the word "bank" or any grammatical variation thereof of the word "bank" in connection with any trade or business carried on by him unless the Central Bank has granted its prior written approval and subject to any conditions which the Central Bank may consider proper to impose.

Prohibition  
of advertising  
for deposits.

22 of 1985  
68 of 1987  
190 of 1989  
43 of 1980  
12 of 1982  
34 of 1991.

- 6.(1) No person shall advertise, cause or suffer to be advertised or assist in the advertising of anything, or issue or cause or suffer to be issued or assist in the issuing of any advertisement or make any statement which is calculated or is likely to induce the public to place money on deposit with any person, other than with a bank or a co-operative society established under the Co-operative Societies Law or with the Housing Finance Corporation established under the Housing Finance Corporation Law.
- (2) For the purposes of this section the term "advertisement" includes every form of advertisement or promotion made by publication or display of notices or any means or circulars or other documents or by exhibition of photographs or cinematograph films or by sound broadcasting or television, and references to the issue of an advertisement shall be construed accordingly.
- (3) Nothing in this section shall be construed as prohibiting the importation and ordinary distribution in the Republic of newspapers, periodicals and books of wide circulation abroad, on the sole ground that they contain

advertisements soliciting deposits for institutions operating abroad.

**PART IV**  
**Establishment and closure of branches and Amendment of Constitution**

Place of business outside the Republic.

- 7.(1) A bank incorporated in the Republic shall not establish or maintain a branch or a representative office outside the Republic without prior written approval of the Central Bank. Such approval may be granted subject to any conditions which the Central Bank may consider proper to impose.
- (2) The Central Bank may at any time, by notice in writing, attach to an approval granted under subsection (1) any new conditions, or amend or cancel any conditions so attached, as it may think proper.
- (3) Subject to the provisions of section 41(2) the Central Bank may, by notice in writing, revoke at any time an approval granted under subsection (1) and the operation of the branch or representative office as the case may be shall be wound up within such time limit as may be specified in the notice.

Representative offices of overseas institutions.

- 8.(1) An institution which is entitled under the laws of another country to carry on business which substantially corresponds to banking business shall not establish in the Republic a representative office without prior written approval of the Central Bank which may grant its approval subject to any conditions which the Central Bank may consider proper to impose.
- (2) Notwithstanding the provisions of section 5, a representative office established under the provisions of subsection (1) may have the word "bank" or any grammatical variation thereof as part of its name, provided that this is the name under which the institution to which it belongs carries on business in its country of origin and provided further that this name is used in the Republic in conjunction with the description "Cyprus representative office".

- (3) The Central Bank may at any time by notice in writing impose to an approval granted under subsection (1) any new conditions or amend or cancel any conditions already imposed as it may think proper to impose.
- (4) The Central Bank may by notice in writing revoke at any time any approval granted under subsection (1) and the operation of the representative office shall be wound up within such time limit as may be specified in the notice.
- Closing of branches. 9. A bank before closing any of its branches should give to the Central Bank three months prior written notice of its intention to do so, or such shorter prior written notice as the Central Bank may determine.
- Changes in Memorandum and Articles of Association. 10.(1) A bank incorporated in the Republic shall as soon as possible and in any event not later than one month after changing its name or amending its memorandum or articles of association or any other instrument constituting or defining its constitution furnish to the Central Bank particulars of the change and or the amendments made.
- (2) The Central Bank may object to the change or to the amendments referred to in subsection (1) and in such a case the bank must comply with any direction of the Central Bank on this matter within three months at the latest.
- (3) A bank other than a bank incorporated in the Republic shall as soon as possible and in any event not later than three months after changing its name or amending its memorandum or articles of association or any other instrument constituting or defining its constitution furnish to the Central Bank particulars of the change and or the amendments made.

## **PART V**

### **Limitations and Prohibitions on certain Business Activities and Transactions**

- Limitation on credit facilities. 11.(1) A bank incorporated in the Republic shall not -
- (a) permit the total value of credit facilities granted to any one person to exceed at any time twenty-five per centum of its capital base, or such other lower percentage as the Central Bank may determine from time to time;

- (b) permit the aggregate of all large credit facilities as defined in subsection (4) to exceed at any time eight hundred per centum of its capital base, or such other lower percentage as the Central Bank may determine from time to time;
  - (c) grant any director any credit facility unless the transaction was approved by a resolution of the Board of Directors carried by a majority of two-thirds of the total number of directors of the bank and the director concerned was not present during the discussion of this subject by the Board and did not vote on the resolution. The facilities granted in such cases are granted on the same commercial terms as would apply to a customer in the ordinary course of banking business;
  - (d) subject to the provisions of subsection (1)(a), permit the total value of credit facilities in respect of all its directors together to exceed at any time forty per centum of its capital base, or such other lower percentage as the Central Bank may determine from time to time;
  - (e) permit the total value of any unsecured credit facilities, which are granted to all its directors together to exceed at any time five per centum of its capital base, or such other lower percentage as the Central Bank may determine from time to time.
- (2) In determining compliance with subsection (1) the following shall not be taken into consideration -
- (a) any credit facilities extended to or guaranteed by the Government of the Republic;
  - (b) any transactions between banks; or
  - (c) any credit facilities and to the extent which the Central Bank may from time to time specify having regard to public interest or to the exceptionally low riskiness of the credit facilities concerned.
- (3) The Central Bank may determine that -
- (a) the interests of two or more persons are so inter-related that they should be considered as one person, whereupon the credit facilities granted to such persons shall be combined and deemed to be granted in respect of a single person;

- (b) the interests of any director are so inter-related with the interests of another person or persons that they should be considered as one person whereupon the credit facilities granted to the director or any such person or persons shall be combined and deemed to be granted to the said director.

(4) For the purposes of this Law -

- (a) "credit facility" in respect of a person means any loan, advance or overdraft granted to such person, or the granting of any financial leasing including hire purchase financing, or the discount of any bill of which he is either acceptor, or drawer or endorser, or the granting of any financial guarantee or the incurrence of any other financial liability or obligation on behalf of this person or the investment in securities issued by that person, or the undertaking of any commitment to grant any of the above, and includes any of the above in respect of another person secured by the guarantee of this person;
- (b) "large credit facility" means the total value of credit facilities granted to any one person when this exceeds ten per centum of the capital base of a bank;
- (c) "unsecured credit facility" means any credit facility granted otherwise than on the security of assets the market value of which is not less than the amount of the facility, or that part of a facility which is in excess of the market value of the asset constituting the security.

Limitation on holdings of immovable property.

12.(1)

- A bank shall not acquire or purchase any immovable property or hold any right therein, save -
- (a) where the property may be currently required for the purpose of conducting its business or for providing recreation facilities to its staff or with the prior written approval of the Central Bank for the purpose of establishing a cultural centre of a non profit making character; or
  - (b) where the property is acquired as a result of a process of selling the property in the course of satisfaction of debts due to the bank or is acquired in the course of settlement of debts due to the bank provided that the property shall be disposed of as soon as possible and in any case within three years of its acquisition except where the Central Bank extends the period of three years if it considers that

such extension is justified on account of exceptional circumstances;

Provided that in the case of a bank other than a bank incorporated in Cyprus the provisions of the Acquisition of Immovable Property (Aliens) Law shall not apply.

Cap. 109.  
52 of 1969  
55 of 1972  
50 of 1990.

- (2) For the purposes of this section the term "immovable property" has the meaning assigned to it by section 2 of the Immovable Property (Tenure, Registration and Valuation) Law.

Cap. 224.  
3 of 1960  
78 of 1965  
10 of 1966  
75 of 1968  
51 of 1971  
2 of 1978  
16 of 1980  
23 of 1982  
68 of 1984  
82 of 1984  
86 of 1985  
189 of 1986  
12 of 1987  
74 of 1988  
17 of 1988  
43 of 1990  
65 of 1990  
30(l) of 1992  
90(l) of 1992  
6(l) of 1993  
58(l) of 1994  
40(l) of 1996.

Limitation  
on share-  
holdings.

- 13.(1) Unless the Central Bank grants its prior written approval and subject to any conditions which the Central Bank may consider proper to impose, a bank shall not acquire or hold directly or indirectly more than ten percent of the share capital of any other company or have control over such company and in the case of a bank incorporated in the Republic the value of any share capital held in any other company shall not exceed ten percent and for all companies in aggregate shall not exceed twenty five percent of its capital base.
- (2) Subsection (1) shall not apply where a bank acquires or holds -
- (a) any part of the share capital of any company under an underwriting or sub-underwriting contract for a

period not exceeding two years from the time of acquisition except where the Central Bank considers proper to extend the period of two years on account of exceptional circumstances;

- (b) any holding of share capital in a company which carries out banking business, nominee, executor or trustee functions or of other functions integral to or closely related to banking business, provided that such company is incorporated in the Republic;
  - (c) any holding of share capital in an insurance company, provided that such company is incorporated in the Republic.
- (3) For the purposes of subsection 2(b) the following shall constitute functions which are integral to or closely related to banking business -
- (a) Financial leasing, including hire purchase financing;
  - (b) Money transmission services;
  - (c) Issuing and administering means of payment including credit cards, travellers cheques and bankers drafts;
  - (d) Guarantees and commitments;
  - (e) Trading for own account or for account of customers in:
    - (i) money market instruments including cheques, bills, CDs,
    - (ii) foreign exchange,
    - (iii) financial futures and options,
    - (iv) exchange and interest rate instruments,
    - (v) securities;
  - (f) Participation in securities issues and the provision of services related to such issues;
  - (g) Advice to undertakings on capital structure, industrial strategy and related questions and advice and services relating to mergers and the purchase of undertakings;
  - (h) Money broking;
  - (i) Portfolio management and advice;
  - (j) Safekeeping and management of securities;
  - (k) Credit reference services;
  - (l) Safe custody services;
  - (m) Data processing services;
  - (n) Insurance brokerage services;
  - (o) Any other activity which may be specified by the Central Bank.
- (4) For purposes of compliance with subsection (1) there shall be excluded any share capital in another company which was acquired by the bank in the course of satisfaction of

debts due to it provided that such share capital is disposed of not later than three years from the time of its acquisition except where the Central Bank considers proper to extend the period of three years on account of exceptional circumstances.

- |                                       |        |   |
|---------------------------------------|--------|---|
| Prohibition of trading.               | 14.(1) | A bank shall not engage, whether on its own account or on a commission basis, in any trading activity or enterprise save in so far as may be necessary in the ordinary course of banking operations for the satisfaction of debts due to the bank.  |
|                                       | (2)    | Nothing in subsection (1) shall be construed as preventing the carrying on of any of the activities referred to in subsections (2)(b), (2)(c) and (3) of section 13.  |
| Prohibition of dealing in own shares. | 15.    | A bank incorporated in the Republic shall not - <ul style="list-style-type: none"> <li>(a) acquire or deal for its own account in its own shares; or</li> <li>(b) grant credit facilities to persons other than the employees of the bank in excess of fifty thousand pounds per person for the purpose of enabling the purchase of its own shares or the shares of its holding company or the shares of any subsidiary of the bank or of its holding company.</li> </ul> |

## **PART VI**

### **Ownership and Management of Banks**

- |                                   |        |   |
|-----------------------------------|--------|---|
| Amalgamation.                     | 16.(1) | Notwithstanding the provisions of any other Law - <ul style="list-style-type: none"> <li>(a) a bank incorporated in the Republic shall not sell or dispose the whole or part of its business by amalgamation or otherwise, except with the prior written approval of the Central Bank;</li> <li>(b) a bank other than a bank incorporated in the Republic shall not sell or dispose the whole or part of its business in the Republic, by amalgamation or otherwise, except with the prior written approval of the Central Bank.</li> </ul> |
|                                   | (2)    | The approval of the Central Bank under subsection (1) may be granted subject to any conditions which the Central Bank may consider proper to impose.  |
| Limitation on large shareholdings | 17.(1) | No person shall, without the prior written approval of the Central Bank, either alone or with any associate or associates acquire or have control over any bank   |

in banks.

incorporated in the Republic or its holding company.

- (2) For purposes of subsection (1) the term associate in relation to a person acquiring or holding shares includes -
- (a) the spouse or relatives of the first degree of kindred of that person;
  - (b) any company of which that person is a director or has control over it;
  - (c) any person who is a partner of that person, and in the case where that person is a company -
    - (i) any director or any person who has control over that company,
    - (ii) any subsidiary of that company, and
    - (iii) any director of any such subsidiary;
  - (d) any other person or persons whose interests, in the opinion of the Central Bank, are sufficiently interrelated with those of that person.

Persons disqualified to act as directors etc.

18. Any person who -
- (a) is bankrupt or has entered into a composition with his creditors; or
  - (b) has been convicted in any country of an offence involving fraud or dishonesty; or
  - (c) has been convicted of an offence under this Law,
- and in the case where that person is a company:
- (i) any director or any person who has control over that company
  - (ii) any subsidiary of that company
  - (iii) any director of any such subsidiary,

shall not be a director, chief executive or manager of bank, unless in the case of bankruptcy or in the cases of conviction as per (a) or (b) above a period of five years from the date of conviction has elapsed.

Direction and management by at least two individuals.

19. At least two individuals are required to participate and concur in the effective direction and management of the business of the bank.

## **PART VII**

### **Capital**

Minimum Capital.	20.	A bank incorporated in the Republic shall have at all times a minimum capital base of not less than three million pounds or such other higher amount that the Central Bank might determine.
Capital adequacy.	21.(1)	Subject to the provisions of section 41(2) the Central Bank may by notice given in writing require banks incorporated in the Republic to maintain a capital adequacy ratio at such minimum level as may be determined by the Central Bank from time to time for each bank individually having regard to its circumstances provided that such ratio shall be uniform for all banks within the same class.
	(2)	The capital adequacy ratio referred to in subsection (1) shall be in the form of mandatory maintenance of a capital base in relation to total assets including off balance sheet exposures or to categories of assets specified by the Central Bank from time to time at such minimum ratio or ratios as may be prescribed by the Central Bank from time to time.
Computation of capital.	22.	Subject to the provisions of section 41(2) the Central Bank shall determine what constitutes capital base of a bank and the method by which it shall be computed and shall notify the banks in writing.

**PART VIII**  
**Liquidity**

Maintenance of liquidity.	23.(1)	The Central Bank may establish a minimum ratio of liquefiable assets to be held by banks, in respect of the liabilities and other obligations of banks falling due or maturing within a period or periods as may be specified by the Central Bank, from time to time.
	(2)	Subject to the provisions of section 41(2) the liabilities and the liquefiable assets for purposes of subsection (1) shall be defined and calculated as may be determined by the Central Bank and notified in writing to banks.
	(3)	The powers which the Central Bank may exercise under this section shall be in addition to and not in substitution of its powers under section 38 of the Central Bank of Cyprus Law.

**PART IX**  
**Returns and Accounts**

Submission	24.(1)	Every bank shall, within four months from the end of each
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and publica-  
tion of balance  
sheet etc.

financial year, submit to the Central Bank a copy of the balance sheet and profit and loss account for that year, in the form prescribed by the Central Bank, duly certified by an approved auditor together with a signed copy of his report in the form prescribed by the Central Bank.

- (2) In case of failure by a bank to appoint an approved auditor, the Central Bank may appoint such auditor and fix his remuneration to be paid by the bank concerned.
- (3) A bank incorporated in the Republic shall publish, within six months from the end of each financial year, in such manner and form as the Central Bank may determine, the balance sheet and profit and loss account for that year together with the auditor's report.
- (4) A bank, other than a bank incorporated in the Republic, shall publish in such manner and form as the Central Bank may determine the balance sheet and profit and loss account for each financial year together with the auditor's report covering its business as a whole.

Returns and  
information  
by banks.

- 25.(1) Every bank shall submit within fifteen days of the end of each month, or within such longer period as the Central Bank may determine, to the Central Bank a certified statement of its assets and liabilities at the end of that month in a form prescribed by the Central Bank.
- (2) The Central Bank may require a bank to submit periodically or at its request such other information and within such time as may be specified by the Central Bank.

## **PART X**

### **Supervision and Inspection**

Supervision and  
inspection by  
Central Bank.

- 26.(1) The Central Bank is responsible for the supervision of banks in order to ensure the orderly functioning of the banking system.
- (2) Every bank shall, when so required by the Central Bank, make available for examination by a duly authorised official of the Central Bank its liquid and other assets, books or records, accounts and other documents, including those relating to the granting of loans and other facilities as well as the reports obtained by the bank regarding the business and financial position of debtors:

Provided that any such official may be assisted by a duly qualified person nominated for this purpose by the Central Bank who shall be bound by the same requirements

regarding confidentiality as those applicable to officials of the Central Bank.

- (3) Any information obtained under this section, subsection (2) of section 3 and sections 24, 25 and 28, other than information which is published, shall be kept secret and used only for any of the purposes of the Central Bank of Cyprus Law, or of this Law.
- (4) Notwithstanding the provisions of subsection (3), the Central Bank may use any of the information provided to it under this law for the computation and publication of statistical aggregates.

Overseas  
banking  
supervisory  
authorities.

- 27.(1) Notwithstanding the provisions of section 26, the Central Bank may provide to the appropriate recognized banking supervisory authority in a territory outside the Republic any information in its possession which -
  - (a) in the opinion of the Central Bank will enable such authority to exercise functions corresponding to those of the Central Bank under this Law; and
  - (b) is related to the affairs of a bank incorporated in that territory or of a bank incorporated in the Republic which has or proposes to establish in that territory a branch, a representative office or a subsidiary.
- (2) The Central Bank shall not divulge any information under this section relating to any individual deposit account.

Communi-  
cation  
between the  
Central Bank  
and Auditors.

- 28.(1) The Central Bank shall from time to time and no less frequently than once a year, arrange trilateral meetings with each bank and its auditors to discuss matters relevant to the Central Bank's supervisory responsibilities which arise in the course of the audit of that bank conducted in accordance with section 24, including relevant aspects of the bank's business, its accounting and control systems, and its annual balance sheet and profit and loss accounts.
- (2) The Central Bank may, if it considers it desirable or necessary in the interests of depositors, arrange bilateral meetings with approved auditors of banks.
- (3) No duty of confidentiality to which an auditor of a bank may be subject shall be regarded as contravened by reason of his communicating in good faith to the Central Bank, whether or not in response to a request made by it, any information or opinion which is relevant to the Central Bank's functions and responsibilities under this Law.

**PART XI**  
**Banking Secrecy**

Duty to  
maintain bank  
secrecy.

- 29.(1) No director, chief executive, manager, officer, employee agent of a bank and no person who has by any means access to the records of a bank, with regard to the account of any individual customer of that bank shall, while his employment in or professional relationship with the bank, as the case may be, continues or after the termination thereof, give, divulge, reveal or use for his own benefit any information whatsoever regarding the account of that customer.
- (2) Subsection (1) shall not apply in any case where -
- (a) the customer or his personal representatives gives or give his or their written permission to do so; or
  - (b) the customer is declared bankrupt or if the customer is a company, the company is being wound up; or
  - (c) civil proceedings are instituted between the bank and the customer or his guarantor relating to the customer's account; or
  - (d) the information is given to the police under the provisions of any law or to a public officer who is duly authorised under that law to obtain that information or to a court in the investigation or prosecution of a criminal offence under any such law; or
  - (e) the bank has been served with a garnishee order attaching moneys in the account of the customer; or

- (f) the information is required in the course of his duties by a colleague in the employment of the same bank or its holding company or the subsidiary of the bank or its holding company or an auditor or legal representative of the bank; or
- (g) the information is required to assess the creditworthiness of a customer in connection with or relating to a bona fide commercial transaction or a prospective commercial transaction so long as the information required is of a general nature and in no way related to the details of a customer's account; or
- (h) the provision of the information is necessary for reasons of public interest or for the protection of the interests of the bank.

## **PART XII**

### **Powers of the Central Bank**

Powers to take measures. 30.(1)

The Central Bank may take all or any of the following measures where a bank fails to comply with any of the provisions of this Law, or of any Regulations made under this Law or with the conditions of its licence, or in the opinion of the Central Bank the liquidity and character of its assets have been impaired or there is a risk that the ability of the bank to meet promptly its obligations may be impaired, or where this is considered necessary for the safeguarding of the interests of depositors or creditors -

- (a) require the bank forthwith to take such action as the Central Bank may consider necessary to rectify the matter;
- (b) completely prohibit until further notice the acceptance of deposits or the granting of credit facilities by the bank, or both;
- (c) consult with other banks with a view to determining the action to be taken;
- (d) assume control of, and carry on in the bank's name, the business of the bank, for so long as the Central Bank may consider necessary, whereupon the bank shall be obliged to provide the Central Bank such facilities as the Central Bank may require for carrying on the business of the bank;
- (e) revoke the licence of the bank.

- (2) The Central Bank shall, before taking any measure under paragraph (a) of subsection (1), furnish a report to the bank inviting its comments thereon within a specified period which should not be less than three days from the date of the delivery of the report.
- (3) The measures referred to in paragraphs (b), (c), (d) and (e) of subsection (1) are taken after consultation with the Minister.
- Con-sequences of revocation of a licence. 31.(1) Where the licence of a bank is revoked the Central Bank shall notify the bank in writing of such revocation and the bank shall as from the date specified in the notice cease to carry on banking business.
- (2) The revocation of a licence under subsection (1) shall not prejudice the enforcement by any person of any right or claim against the bank or by the bank of any right or claim against any person.
- Liability of Central Bank. 32. Neither the Central Bank nor any person who is a Director or an officer of the Central Bank shall be liable in any action suit or other legal proceedings for damages for anything done or omitted in the discharge or purported discharge of the functions and responsibilities of the Central Bank under this Law unless it is shown that the act or omission was not in good faith or was the result of gross negligence.
- PART XIII**  
**Winding-up**
- Winding-up and appointment of liquidator. 33. Notwithstanding anything contained in the Companies Law in connection with the winding up of a company, the revocation of the licence of a bank under paragraph (e) of subsection (1) of section 30 of this Law, constitutes a ground for its winding up by the Court on the application of the Central Bank and the appointment, in any case, of a liquidator of a bank other than the Official Receiver, shall not be made without the Court having first previously heard the views of the Central Bank.

**PART XIV**  
**Deposit Protection Scheme**

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| Compensation of depositors. | 34.(1) | The Central Bank shall set up a deposit protection scheme for the purpose of compensating depositors.   |
|                             | (2)    | The Central Bank may, with the approval of the Council of Ministers, make regulations governing the management and administration of the deposit protection scheme, participation in the scheme, the circumstances under which and the extent to which compensation may be provided and the level of contributions to the scheme. |
|                             | (3)    | Any regulations made by the Central Bank under subsection (2) shall be submitted to the House of Representatives for approval. The first regulations shall be submitted to the House of Representatives within one year from the enactment of this Law.   |

**PART XV**  
**Miscellaneous**

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| Application of this Law to Co-operative Societies.<br>22 of 1985<br>68 of 1987<br>190 of 1989<br>8 of 1992<br>22(l) of 1992. | 35.(1) | Subject to the provisions of subsection (2) and of section 38, this Law shall not apply to societies established under the Co-operative Societies Law.   |
|  | (2)    | Co-operative societies established principally for the purpose of carrying on banking business for the benefit of their members who are themselves co-operative societies, shall be subject to the provisions of this Law except section 14 and the term "bank" in this Law shall be deemed to include such societies. |
| Housing Finance Corporation.<br><br>43 of 1980<br>18 of 1982<br>34 of 1991.  | 36.    | The provisions of this Law shall also apply to the Housing Finance Corporation to the extent that these are not in conflict with the provisions of the Housing Finance Corporation Laws.   |
| Offshore banks.  | 37.(1) | The Central Bank shall have power to waive the operation of any of the provisions of this Law in relation to an offshore bank.   |

- (2) For the purpose of subsection (1) an offshore bank shall be deemed to be a separate bank from any other branches in the Republic belonging to the same legal person to which the offshore bank belongs.
- Application of certain sections of this Law to designated financial institutions. 38. Sections 25, 26 and 42 of this Law shall apply to designated financial institutions and the term "bank" in these sections shall be deemed to include any designated financial institution.
- Holding and subsidiary companies. 39.(1) The Central Bank may determine that the holding company and any of the subsidiaries of a bank and of its holding company shall be deemed to be a bank for the purpose of any of the provisions of this Law as may be specified by the Central Bank, whereupon the relevant provision or provisions shall apply to any such company either singly or on a consolidated basis.
- (2) Where the holding company and any of the subsidiaries of a bank are under the supervision of other appropriate authorities, the Central Bank shall act in accordance with subsection (1) after consultation with such authorities.
- Banks unable to meet obligations. 40. If any bank has any indication that it may face serious difficulties or become unable to meet its obligations or if it is about to suspend payment it shall forthwith inform the Central Bank.
- Power to issue directives. 41.(1) The Central Bank may, for the purpose of implementing the objectives of this Law and subject to the provisions of this Law, issue general or specific directives which are communicated in any manner that the Bank may determine.
- (2) In exercising its discretionary power under this Law, the Central Bank shall act after taking into consideration, by way of guidance, the international practice and the directives and regulations of the European Union, the protection of depositors and the interests of the customers of the bank in general as well as the orderly functioning of the banking system and shall issue adequately reasoned decisions or directives.
- Administrative fine. 42. Where the Central Bank in exercising its powers to collect information, entry and inspection under sections 25 and 26 ascertains contravention because the bank to which the request had been made -
- (a) failed to provide the requested information within specified time limits;

- (b) knowingly or negligently provided inaccurate data or misleading information;
- (c) knowingly or negligently made available in an incomplete form records, books, accounts or other professional documents or information requested or in an incomplete form refused to comply with the Central Bank's order for inspection,

the Governor of the Central Bank, after calling the bank to state its defence, has the power to impose for each and every contravention an administrative fine ranging from one thousand to ten thousand pounds, depending on the severity of the contravention, and in the case of a continuing contravention the Governor of the Central Bank is additionally empowered to impose a further administrative fine, ranging from one hundred to five hundred pounds, depending on the severity of the contravention, for each day during which the contravention continues.

## **PART XVI**

### **Offences, Penalties and Prosecutions**

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| Offences and penalties. | 43.(1) | The infringement of any provisions of this Law, except those provisions referred to in subsection (2), is an offence punishable by imprisonment not exceeding two years or by a fine not exceeding fifty thousand pounds or by both and in case of a continuing offence by a further fine not exceeding one thousand pounds for each day during which the offence continues.  |
|                         | (2)    | The infringement of any of the provisions of sections 8, 9, 10, 11, 12, 13, 15, 20, 21, 23, 24, 25 or 26 of this Law is an offence punishable by a fine not exceeding fifty thousand pounds and in case of a continuing offence by a further fine of one thousand pounds for each day during which the offence continues.   |
|                         | (3)    | Where an offence is committed as a result of an infringement of the provisions of this Law, by a bank or by an organisation of persons incorporated or unincorporated, then any director, chief executive, manager, partner or other officer or employee of the bank or of the organisation, who authorises or knowingly permits such infringement shall be guilty of an offence and in case of conviction shall be liable to the penalties provided in subsections (1) or (2) depending on the provisions infringed. |

Prosecutions by or with the consent of the Attorney-General of the Republic. 44. No prosecution in respect of any offence under this Law shall be instituted except by or with the consent of the Attorney-General of the Republic.

**PART XVII**  
**Transitional Provisions**

Former licences deemed to be licences under this Law. Cap. 124. 45.(1) All banking licences issued under the Banking Business (Temporary Restrictions) Law which were in force immediately prior to the enactment of this Law shall be deemed to be banking licences issued under this Law.

(2) Any conditions attached to a banking licence referred to in subsection (1) shall be deemed to be conditions imposed under this Law and shall continue to be in force until amended, varied or revoked.

Compliance with this Law. 46.(1) A bank which on the date of coming into operation of this Law was engaging in business prohibited by this Law or was holding specified assets in excess of limits provided under the provisions of sections 11 to 15 or whose paid up initial capital was below the minimum limit specified under the provisions of section 19, shall within three months from the coming into operation of this Law, inform the Central Bank of the position; and the Central Bank shall, after consultation with the bank concerned, establish a time table for rectifying the position provided that the maximum period or periods for rectifying the position shall not exceed three years from the date of coming into operation of this Law.

(2) As from the date of coming into operation of this Law a bank shall not engage in any new business which is prohibited under this Law or which would bring holdings of specified assets in excess of the limits provided in this Law or which would increase the excess of holdings of those assets above such limits.

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| Extension of period for compliance with this Law. | 47. | If for the purposes of compliance by a bank with this Law in accordance with section 46 the sale of certain of its assets or the calling in of certain of its credit facilities is required, the Central Bank may extend the maximum period for rectifying the position by a further period not exceeding two years if it is established to the satisfaction of the Central Bank that the sale of assets or calling in of credit facilities within the period specified could result in substantial losses or hardship to the bank or to its customers. |
| Repeal. Cap. 124.                                 | 48. | The Banking Business (Temporary Restrictions) Law is hereby repealed.   |