

CAYMAN ISLANDS



Supplement No. 5 published with Extraordinary
Gazette No. 5 dated 28th January, 2003.

THE BANKS AND TRUST COMPANIES (AMENDMENT) LAW, 2002

(LAW 35 OF 2002)

The Banks and Trust Companies (Amendment) Law, 2002

REPUBLIC OF EGYPT

Law No. 100 of 2002

THE BANKS AND TRUST COMPANIES (AMENDMENT) LAW, 2002

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The Banks and Trust Companies (Amendment) Law, 2002

CAYMAN ISLANDS

Law 35 of 2002.

I Assent

B.H. Dinwiddy

Governor.

Date: 22 January, 2003

A LAW TO AMEND THE BANKS AND TRUST COMPANIES LAW (2001 REVISION) TO TRANSFER, FROM THE GOVERNOR IN COUNCIL TO THE CAYMAN ISLANDS MONETARY AUTHORITY, LICENSING POWERS IN RELATION TO BANKS AND TRUST COMPANIES; TO INCREASE THE REGULATORY POWERS OF THE MONETARY AUTHORITY IN RELATION TO BANKS AND TRUST COMPANIES; AND TO MAKE PROVISION FOR RELATED MATTERS

ENACTED by the Legislature of the Cayman Islands.

Short title and commencement

1. (1) This Law may be cited as the Banks and Trust Companies (Amendment) Law, 2002.

(2) This Law shall come into force on such date as may be appointed by order made by the Governor.

Amendment of section 2 of the Banks and Trust Companies Law (2001 Revision) - definitions

2. The Banks and Trust Companies Law (2001 Revision), in this Law referred to as the "principal Law", is amended in section 2 by repealing the definition of the term "Governor" and substituting the following definition -

"Governor" means the Governor in Council;".

Amendment of section 5 - licence required to carry on banking or trust business

3. The principal Law is amended in section 5(1) and (2), respectively, by repealing the word "Governor" and substituting the word "Authority".

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4. The principal Law is amended in section 6 as follows -

Amendment of section
6 - application to be
made to Authority

- (a) in the marginal note, by repealing the word "Governor" and substituting the word "Authority";
- (b) in subsection (1) -
 - (i) by repealing the word "Governor" wherever it appears and substituting the word "Authority"; and
 - (ii) by repealing the words "as he may deem necessary" and substituting the words "as the Authority may deem necessary";
- (c) in subsections (5) and (10), respectively, by repealing the word "Governor" wherever it appears and substituting the word "Authority";
- (d) in subsection (6), by repealing the words "after the period of nine months commencing with the 26th day of April, 2001, carry on business in the Islands" and substituting the words "after the period of twenty-four months commencing with the 26th day of April, 2001, carry on business in or from within the Islands";
- (e) in subsections (6)(c) and (9), respectively, by repealing the word "Governor" and substituting the word "Authority";
- (f) by inserting after subsection (8) the following subsection -

" (8A) Without prejudice to the foregoing provisions of this section, if the annual fee referred to in subsection (8) is not paid on or before every 15th day of January after the first grant of the licence, the unpaid annual fee may be sued for by the Crown by action as a civil debt and the Crown may require, and the court may order, the payment of any penalties accrued in respect of the late payment of the fee."; and
- (g) by inserting after subsection (11) the following subsection -

" (12) In subsection (8A), "court" means the Grand Court or a court of summary jurisdiction, as the case may be."

5. The principal Law is amended in section 7 as follows -

Amendment of section
7 - shares not to be
issued or transferred
without approval of
Authority

- (a) in the marginal note and in subsection (1), respectively, by repealing the word "Governor" and substituting the word "Authority"; and
- (b) in subsection (2), by repealing the word "Governor" wherever it appears and substituting the word "Authority".

6. The principal Law is amended in section 8(1), (2), (3) and (5), respectively, by repealing the word "Governor" and substituting the word "Authority".

Amendment of section
8 - net worth
requirements

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- Amendment of section 9 - use of word "bank", etc.
7. The principal Law is amended in section 9 as follows -
- (a) in subsections (1), (2), (3), (4) and (5), respectively, by repealing the word "Governor" and substituting the word "Authority";
 - (b) in subsection (3), by repealing the words "his approval" and substituting the words "its approval";
 - (c) in subsection (4), by repealing the words "he considers " and substituting the words "the Authority considers"; and
 - (d) in subsection (5), by repealing the words "he may revoke such licence if, in his opinion" and substituting the words "the Authority may revoke such licence if, in the Authority's opinion".
- Amendment of section 10 - accounts
8. The principal Law is amended in section 10(1), by repealing the words "the Governor or ".
- Amendment of section 12 - number and approval of directors
9. The principal Law is amended in section 12 as follows -
- (a) in subsection (2), by repealing the words "his written approval" and substituting the words "its written approval"; and
 - (b) in subsections (4)(b) and (5), respectively, by repealing the words "with the approval of the Governor".
- Amendment of section 13 - powers and duties of Authority
10. The principal Law is amended in section 13 as follows -
- (a) in subsection (1) -
 - (i) in paragraph (b), by repealing the words "or when so required by the Governor" wherever they appear;
 - (ii) in paragraph (c), by repealing the words "when required by the Governor,"; and
 - (iii) in paragraph (d), by repealing the words "or when so required by the Governor"; and
 - (b) in subsection (2) -
 - (i) in paragraph (a), by repealing the words "make recommendations to the Governor" and substituting the words "make decisions";
 - (ii) in paragraph (b), by repealing the words "make recommendations to the Governor in respect of the exercise of his powers" and substituting the words "make decisions in respect of the exercise of its powers"; and
 - (iii) in paragraph (c), by repealing the words "act as the adviser to the Governor and take all necessary action, including, with the approval of the Governor," and substituting the words "take all necessary action, including".

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11. The principal Law is amended in section 14 as follows -

Amendment of section
14 - additional powers of
Authority

- (a) by repealing the marginal note and substituting the following -
“Additional powers of Authority.”;
- (b) in subsections (1), (2), (4), (5) and (6), respectively, by repealing the word “Governor” and substituting the word “Authority”;
- (c) in subsection (1) -
 - (i) by repealing the words “he may forthwith do any of the following-” and substituting the words “the Authority may forthwith do any of the following-”; and
 - (ii) in paragraph (vi), by repealing the words “as he considers necessary” and substituting the words “as the Authority considers necessary”;
- (d) in subsection (2), by repealing the words “his decision” and substituting the words “its decision”;
- (e) in subsection (3), by repealing the words “the Governor and”;
- (f) in subsection (4)(c), by repealing the words “as he may impose” and “approved by him” and substituting the words “as the Authority may impose” and “approved by the Authority”, respectively; and
- (g) in subsection (6) -
 - (i) by repealing the words “he shall cause” and substituting the words “the Authority shall cause”; and
 - (ii) by repealing the words “as he may consider necessary” and substituting the words “as the Authority may consider necessary”.

12. The principal Law is amended in section 15 as follows –

Amendment of section
15 - Authority may
apply to Court

- (a) in the marginal note and in the section, respectively, by repealing the word “Governor” and substituting the word “Authority”; and
- (b) by repealing the words “he considers” and substituting the words “the Authority considers”.

13. The principal Law is amended in section 16 as follows -

Amendment of section
16 - surrender of licence

- (a) in subsection (1), by repealing the word “Governor” wherever it appears and substituting the word “Authority”; and
- (b) in subsection (2), by repealing the word “Governor” and substituting the word “Authority”.

14. The principal Law is amended in section 19, by repealing the words “the Governor or ”.

Amendment of section
19 - false or misleading
information

15. The principal Law is amended in section 21 as follows -

Amendment of section
21 - appeals

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- (a) in subsections (1), (2), (3) and (6), respectively, by repealing the word "Governor" wherever it appears and substituting the word "Authority";
- (b) in subsection (2), by repealing the words "his decision" and substituting the words "its decision"; and
- (c) in subsection (7), by repealing the word "Governor" and substituting the word "Authority".

Amendment of section
22 - immunity

16. The principal Law is amended in section 22 as follows -

- (a) by repealing the words "Neither the Governor, the Authority nor any member of the Executive Council shall be liable" and substituting the words "The Authority shall not be liable"; and
- (b) by repealing the words "their respective functions" and substituting the words "its functions".

Savings provisions

17. (1) Every application for the grant of a licence made under the old Law and wholly or partly heard by the Governor in Council when the new Law comes into force, is to be continued and dealt with in all respects as if the new Law had not come into force.

(2) A licence granted as a result of an application determined under subsection (1) is to be granted on the same terms and conditions that would have applied if the new Law had not come into force.

(3) Every application for the grant of a licence made under the old Law and not wholly or partly heard by the Governor in Council when the new Law comes into force, is to be taken to be an application made under the new Law and the provisions of the new Law are to apply accordingly.

(4) In the case of an appeal against any decision of the Governor in Council that has been commenced but not finally determined before the new Law comes into force, the Grand Court is to continue to deal with the appeal as if the new Law had not come into force; and when the appeal is finally determined, the old Law is to apply subject to any necessary modifications as if the appeal had been finally determined before the new Law came into force.

(5) Any licence granted under the old Law and in force immediately before the date of commencement of this Law -

- (a) shall have effect from that date, as if granted under the new Law; and
- (b) in the case of a licence for a specified period, shall remain in force, subject to the provisions of the new Law, for so much of that period as falls after that date.

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(6) On and after the date of commencement of this Law, neither the Governor, the Authority nor any member of the Executive Council shall be liable in damages for anything done or omitted in the discharge or purported discharge of their respective functions under the old Law, unless it is shown that the act or omission was in bad faith.

(7) In this section -

“the new Law” means the principal Law as amended by this Law; and

“the old Law” means the principal Law in force immediately before the date of commencement of this Law.

Passed by the Legislative Assembly the 19th day of December, 2002.

JULIANNA O’CONNOR - CONNOLLY

Speaker.

WENDY LAUER EBANKS

Clerk of the Legislative Assembly.

The British and American governments

and the United States government have been
concerned with the situation in the
Middle East since the beginning of the
war. The British and American governments
have been working together to bring about
a settlement of the Arab-Israeli conflict.

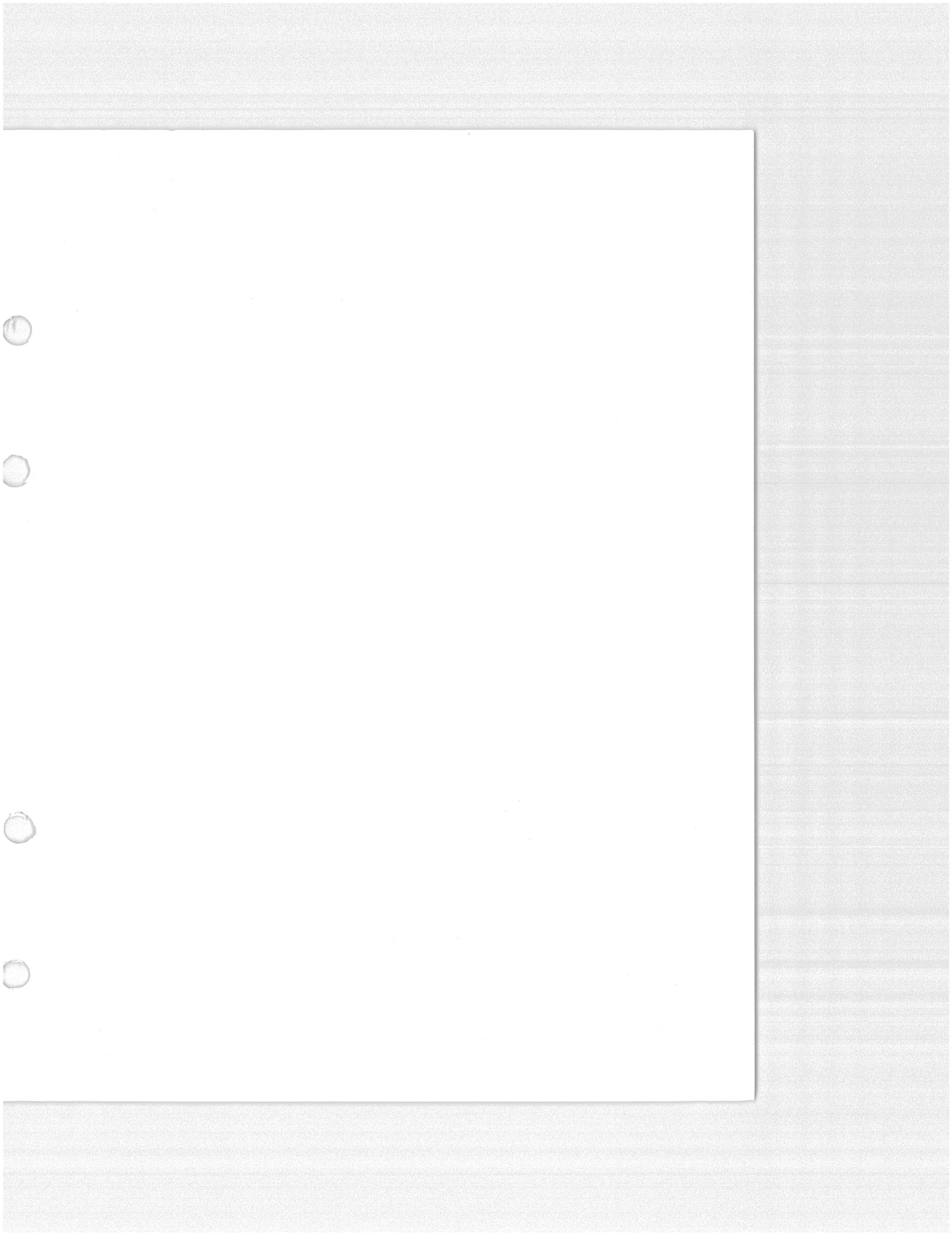
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