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THE BANKS AND TRUST COMPANIES LAW

(1995 Revision)

**THE BANKS AND TRUST COMPANIES (LICENCE APPLICATIONS
AND FEES) REGULATIONS**

(1997 Revision)

Revised under the authority of the Law Revision Law (19 of 1975).

The Banks and Trust Companies (Licence Applications) Regulations, 1989 made
the 9th June, 1989

Consolidated with the-

Banks and Trust Companies (Fees) Regulations, 1989 made the 9th June, 1989

Banks and Trust Companies (Fees) (Amendment) Regulations, 1990 made the
24th July, 1990

Banks and Trust Companies(Fees) (Amendment) Regulations, 1995 made the 3rd
March, 1995.

Consolidated and revised this 7th day of January, 1997.

**BANKS AND TRUST COMPANIES (LICENCE APPLICATIONS AND
FEES) REGULATIONS**

(1997 Revision)

ARRANGEMENT OF REGULATIONS

1. Citation
2. Particulars, etc., to be contained in application for licence
3. Prescription of fees
Schedule

BANKS AND TRUST COMPANIES (LICENCE APPLICATIONS AND FEES) REGULATIONS

(1997 Revision)

1. These regulations may be cited as the Banks and Trust Companies (Licence Applications and Fees) Regulations (1997 Revision). Citation

2. The information and particulars to be contained in an application for a licence under section 5, and the details and things which are to accompany them, are set out in the Schedule hereto. Particulars, etc., to be contained in application for licence

3. The following fees are prescribed to be payable on the first grant of a licence under section 5(7) and thereafter annually under section 5(8)- Prescription of fees
 - (a) an "A" Banking licence alone \$42,000
 - (b) an "A" Banking licence and a Trust licence \$42,000
 - (c) a "B" Banking licence alone \$12,600
 - (d) a "B" Banking licence and a Trust licence \$12,600
 - (e) a Trust licence alone \$12,600
 - (f) a Restricted "B" Banking licence alone \$ 6,000
 - (g) a Restricted "B" Banking licence and a Restricted Trust licence \$ 6,000
 - (h) a Restricted Trust licence alone \$ 1,640
 - (i) a Nominee (Trust) licence \$ 1,000

SCHEDULE

1. The name of the bank or trust company (hereinafter referred to as "the applicant") in respect of which the licence is sought.
2. Evidence of the granting and currency of any approval required under section 8 to the use of any word in the title or description of the applicant.
3. If not within the Islands, the address of the principal office of the applicant and of its registered office if it is different.
4. The names and addresses of the two individuals or the body authorised under section 5(2) to be the agents in the Islands of the applicant.
5. If the applicant is a company to which Part IX of the Companies Law (1995 Revision) applies, the names and addresses of some one or more persons 1995 Revision

authorised under paragraph (c) of section 202(1) of that law to accept service on its behalf of process or notices.

6. If the applicant is a company, evidence of its incorporation in the Islands, or outside them, as the case may be.

7. A copy of the memorandum and articles of association, act, statute, charter, partnership agreement or other instrument constituting and defining the constitution of the applicant verified by a statutory declaration made by one of its directors, partners or its secretary and-

- (a) in the case of an applicant which is a company incorporated in the Islands, certified under section 26 of the Companies Law (1995 Revision); and
- (b) in the case of an applicant which is incorporated under any law other than the law of the Islands, certified and authenticated under the public seal of the country, city or place under the law of which it is incorporated and, if such instrument is not written in the English language, a certified English translation thereof.

8. Where appropriate, a statement in writing in a form acceptable to the Inspector from the authority responsible for the administration of the laws relating to banking or trust businesses, as the case may be, and the supervision of such businesses, in the country in which the applicant or its parent company is incorporated that such authority is aware of the application.

9. If the applicant is a company incorporated in the Islands -

- (a) the full names, addresses and nationalities of each shareholder who holds more than two per cent of its share capital;
- (b) the annual accounts for the two years immediately preceding the year of application of each shareholder which is a body corporate to which paragraph (a) applies, together with similar accounts for the parent body, if any, of each such body corporate;
- (c) two or more references verifying the good financial standing of each shareholder who is a natural person to whom paragraph (a) applies;
- (d) the full names, addresses and nationalities of all directors, managers and officers of the applicant;
- (e) two character references for each of the persons referred to in paragraph (d) and, for each such person, a police or other certificate satisfactory to the Inspector that the person has not been convicted of a serious crime or any offence involving dishonesty;

- (f) evidence acceptable to the Inspector of the availability to the applicant at all times of adequate professional knowledge and experience in the banking or trust business, as the case may be, and the names of at least two of its directors actively engaged in the business of the applicant, one of whom shall possess a sound professional knowledge of, and experience in, the banking or trust business, as the case may be;
 - (g) the names and addresses of the registered offices of all subsidiary companies of the applicant together with a statement as to how much of the capital of each such company constitutes an asset of the applicant;
 - (h) the name and address of the firm of auditors practising in the Islands and approved by the Inspector appointed to audit the accounts of the applicant;
 - (i) a statement giving the date for the drawing up of the annual accounts of the applicant;
 - (j) business references from two banks or two trust companies, as the case may be;
 - (k) details of the current business activities, if any, of the applicant and its proposed activities if the licence applied for is granted including-
 - (i) its business aims;
 - (ii) a detailed statement setting out its proposed initial assets and its proposed assets and expected liabilities at the end of each of the two years next succeeding the date of such grant together with an estimate of expected income;
 - (iii) particulars of its management structure and personnel;
 - (iv) a statement as to its customer base, including, in the case of an application for a Restricted licence, the names and addresses of its customers; and
 - (v) a copy of its most recent balance sheet and details of its fee earnings, if any; and
 - (l) requests for any exemption from the requirements of the Law sought by the applicant.
10. If the applicant is a company incorporated outside the Islands-
- (a) a list certified by its secretary containing the names, addresses and nationalities of its directors and corporate officers;
 - (b) a chart showing the relationship to its subsidiaries and affiliates and any holding company;
 - (c) the name and address of its auditor;
 - (d) a statement giving the date for the drawing up of its annual accounts;

- (e) a copy of its latest annual accounts and those of its holding company, if any;
- (f) a letter, or letters, addressed to the Governor under the hand of its presiding officer containing-
- (i) a statement describing in outline the history of the applicant and its present business activities;
- (ii) a brief description of each of its subsidiaries and affiliates;
- (iii) the reasons for wishing to obtain the licence sought and its business aims for the applicant;
- (iv) evidence acceptable to the Inspector of the professional knowledge and experience in banking or trust business, as the case may be, of the directors and managers, and certificates satisfactory to the Inspector showing that none of them have been convicted of a serious crime or any offence involving dishonesty;
- (v) confirmation in writing under the hand of the presiding officer of the applicant and the presiding officer of its parent body, if any, that they concur in the making of the application; and
- (vi) requests for any exemption from the requirements of the Law sought by the applicant;
- (g) business references from two banks or trust companies of international repute, as is appropriate; and
- (h) a statement in writing in a form acceptable to the Inspector accepting legal responsibility for the obligations and liabilities of the applicant executed by and binding on the parent company, if any, of the applicant.

11. Each application for a Restricted “B” licence shall be accompanied by an undertaking in a form acceptable to the Inspector that the applicant shall not receive or solicit by way of trade or business from persons other than those whose names and addresses are listed in the undertaking as required by paragraph (d) of section 5(5).

12. Each application for a Restricted Trust licence shall be accompanied by an undertaking in a form acceptable to the Inspector that the applicant shall not undertake trust business for persons other than those whose names and addresses are listed in the undertaking as required by paragraph (e) of section 5(5).

13. Each applicant for an “A”, a “B” or a Trust licence shall furnish evidence acceptable to the Inspector that it has a fully paid-up capital of not less than four hundred thousand dollars or its equivalent in other currencies, or such greater sum as may be determined by the Governor.

14. Each applicant for a Restricted “B” or a Restricted Trust licence shall furnish evidence acceptable to the Inspector that it has a fully paid-up capital of not less than twenty thousand dollars or its equivalent in other currencies, or such greater sum as may be determined by the Governor.

15. Each applicant for a Nominee (Trust) licence shall furnish a guarantee in a form approved by the Inspector from the licensee of which the applicant is the wholly-owned subsidiary, guaranteeing to meet the liabilities of the applicant up to the sum of two hundred thousand dollars. Such guarantee shall, among other things, expressly provide that its formal validity, effect and interpretation, and the rights and liabilities of the parties thereto, are governed exclusively by the law of the Islands and that the Courts (including the Court of Appeal) of the Islands shall have exclusive jurisdiction in respect of all or any of those matters.

16. An application fee of one thousand dollars.

Publication in consolidated and revised form authorised by the Governor in Council this 7th day of January, 1997.

Carmena H. Parsons

Clerk of Executive Council