

CAYMAN ISLANDS

LAW 8 of 1966

I assent,

(L.S.)

J.A. CUMBER
Administrator

28th May 1966

A LAW to regulate Banking Business and Trust Companies within the islands and other matters related thereto.

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Enacted by the Legislature of the Cayman Islands.

1. - This Law may be cited as the Banks and Trust Companies Regulation Law, 1966, and shall come into operation on a day to be appointed by the Administrator by Government Notice published in the Cayman Islands. Short title and commencement.

2. - In this Law unless the context otherwise requires — Interpretation.

“authorised agent” means a person designed by a bank or trust company under the provision of section 4;

“bank” means any person carrying on banking business;

“banking business” means the business of receiving

(No. 8) *The Banks and Trust Companies Regulation Law, 1966.*

on current, savings, deposit or other similar account money which is repayable by cheque or order and may be invested by way of advances to customers or otherwise;

“company” means a company incorporated either under the laws of the Islands or under the laws of any other country or place;

“licence” means a licence granted under section 4 of this Law or deemed to be so granted in accordance with that section;

“licensee” means any person holding a licence under the provisions of this Law;

“person” includes any body of persons corporate or unincorporate;

“prescribed” means prescribed by regulations made under this Law;

“trust business” means the business of acting as trustee, executor or administrator;

“trust company” means any company carrying on trust business.

Licence required to carry on banking business or to operate a trust company.

3. - (1) No banking business shall be transacted from within the Islands whether or not such business is carried on in the Islands except by a person who is in possession of a valid licence granted by the Administrator in Council authorizing him to carry on such business:

Provided that any bank in the Islands carrying on banking business at the commencement of this Law shall be deemed to have been granted a licence under section 4 of this Law for a period of six months from the commencement of this Law.

(2) No trust company shall carry on trust business from within the Islands whether or not such business is carried on in the Islands unless it is in possession of a valid licence granted by the Administrator in Council authorizing it to carry on such business:

Provided that any trust company in the Islands carrying on trust business at the commencement of this Law shall be deemed to have been granted a licence under section 4 of this Law for a period of six months

from the commencement of this Law.

(3) Every person who contravenes the provisions of this section shall be guilty of an offence against this Law and shall be liable on summary conviction to a fine not exceeding one thousand pounds or to imprisonment for a term not exceeding one year or to both such fine and imprisonment and in the case of a continuing offence to a fine not exceeding one hundred pounds for each day during which the offence continues.

4. - (1) Any person desirous of carrying on banking business and any company desirous of carrying on trust business from within the Islands shall make application to the Administrator for the grant of a licence. Every such application shall be in writing and shall contain such information and particulars and shall be accompanied by such references as may be prescribed and the Administrator in Council may, if satisfied that the carrying on of such business will not be against the public interest, grant a licence to such person or company subject to such terms and conditions, if any, as the Administrator in Council may deem necessary.

Application
shall be made
to the Admin-
istrator

(2) Every bank and every trust company in the Islands at the commencement of this Law which proposes to carry on, or continue in, banking business or trust business, as the case may be, shall within six months of that date apply to the Administrator for a licence in accordance with the provisions of subsection (1) of this section.

(3) Whenever it is considered to be in the public interest, the Administrator in Council may refuse to grant a licence.

(4) A licence shall not be granted to any bank or trust company having its head office or its registered office outside the Islands unless such bank or trust company designates and notifies to the Administrator —

- (a) a principal office in the Islands;
- (b) by name one of its officers who is to be the bank's or trust company's authorized agent in the Islands; and

(c) by name another of its officers who in the absence or inability to act of the officer named under paragraph (b) of this subsection is to be the bank's or trust company's authorized agent in the Islands.

(5) It shall be a condition of every licence granted to a bank or trust company to which subsection 4 of this section applies, that the bank or trust company shall forthwith notify the Administrator in writing of any change of —

- (a) its principal office in the Island; or
- (b) either or both of the officers designated pursuant to paragraph (b) or (c) of subsection (4).

(6) The Administrator in Council may by Order revoke any licence —

- (a) if the licensee has ceased to carry on banking business or trust business; or
- (b) if the licensee becomes bankrupt or goes into liquidation or is wound up or otherwise dissolved; or
- (c) in the circumstances and in the manner provided for in section 9 of this Law.

Shares etc.
not to be
issued or trans-
ferred without
approval of
Administrator
in Council.

5. - No shares in a company or certificates of deposit or any other securities of such company which is a licensee under this Law shall be issued and no issued shares shall be transferred or disposed of in any manner without the prior approval of the Administrator in Council:

Provided that —

- (a) this section shall not apply to the several banks and trust companies specified in the Schedule hereto; and
- (b) the Administrator in Council may exempt any other licensee from the provisions of this section subject to such terms and conditions, if any, as the Administrator in Council may deem necessary.

Use of the
word "bank"
etc.

6. - (1) Except with the approval of the Administrator in Council, no person, other than a licensee shall —

- (a) use or continue to use the words "bank", "trust", "trust company", "trust corporation", "savings" or "savings and loan" or any of their derivatives either in English or in any other language, in the description or title under which such person is carrying on business from within the Islands whether or not such business is carried on in the Islands;
- (b) make or continue to make any representation in any billhead, letter, letterhead, circular, paper, notice, advertisement or in any other manner whatsoever that such person is carrying on banking business or trust business;
- (c) in any manner whatsoever solicit or receive deposits from the public.

(2) Except with the approval of the Administrator in Council, no company shall be registered or continue to be registered, by a name which contains the words "bank", "trust", "trust company", "trust corporation", "savings" or "savings and loan" or any of their derivatives either in English or in any other language, in the description or title under which such company is carrying on business from within the Islands whether or not such business is carried on in the Islands.

(3) Before giving his approval under subsection (1) or subsection (2) of this section the Administrator in Council may require of any person such references and such other information and particulars as may be prescribed.

(4) Whenever he considers it to be in the public interest the Administrator in Council may withdraw any approval given under subsection (1) of this section.

(5) The Administrator in Council may refuse to grant a licence to a bank or a trust company, or if such bank or trust company is already in possession of a licence, he may revoke such licence, if in his opinion such bank or trust company is carrying on or intending to carry on banking or trust business, as the case may be, under a name which -

- (a) is identical with that of any company, firm or business house whether within the Islands or not or which so nearly resembles that name as to be calculated to deceive; or
- (b) is calculated to suggest, falsely, the patronage of or connection with some person or authority whether within the Islands or not;
- (c) is calculated to suggest, falsely, that such bank or trust company has a special status in relation to or derived from the Government of the Cayman Islands or has the official backing of or acts on behalf of the said Government or of any department or official thereof or is recognized in the Islands as a national or central bank or trust company.

(6) Every person who contravenes the provisions of this section shall be guilty of an offence against this Law and shall be liable on summary conviction to a fine not exceeding one thousand pounds or to a term of imprisonment not exceeding one year or to both such fine and imprisonment and in the case of a continuing offence to a fine not exceeding one hundred pounds for each day during which the offence continues.

Administrator
in Council
may require
financial
statement etc.
of licensee.

7. - The Administrator in Council, in relation to a licensee which is or appears likely to become unable to meet its obligations or which in the opinion of the Administrator in Council is carrying on business in a manner detrimental to the public interest or to the interest of creditors or depositors of such licensee, may by instrument in writing require the manager or authorized agent of such licensee to supply within such reasonable time as may be specified in the instrument -

- (a) the financial statement of that licensee as at a date within the previous fifteen months audited by an auditor who shall be a chartered accountant or a certified public accountant approved of by the Administrator; and
- (b) such other information relating to the licensee

as may be so specified;

and any person who contravenes the requirements of such an instrument or who in response to such an instrument knowingly or wilfully supplies false information to the Administrator shall be guilty of an offence against this Law and shall be liable on summary conviction to a fine not exceeding five hundred pounds or to a term of imprisonment not exceeding six months or to both such fine and imprisonment.

8. - (1) The Inspector of Banks and Trust Companies (hereinafter in this section referred to as "the Inspector") shall be a Government Officer appointed by the Administrator in Council.

Powers and
duties of the
Inspector

(2) It shall be the duty of the Inspector —

- (a) to maintain a general review of banking practice in the Islands;
- (b) whenever he thinks fit or when required by the Administrator in Council to examine in such manner as he thinks necessary the affairs or business of every licensee carrying on business from within the Islands for the purpose of satisfying himself that the provisions of this Law are being complied with and that the licensee is in a sound financial position, and to report to the Administrator in Council the results of every such examination;
- (c) to examine and report on the several returns delivered to the Administrator pursuant to Section 7 of this Law; and
- (d) to examine and make recommendations to the Administrator in Council with respect to applications for licences.

(3) In the performance of his functions under this Law and subject to the provisions of section 10 hereof the Inspector shall be entitled at all reasonable times —

- (a) to have access to such books, records, vouchers, documents, cash and securities of any licensee;
- (b) to call upon the manager or any officer des-

ignated by the manager of any licensee for such information or explanation,

as the Inspector may reasonably require for the purpose of enabling him to perform his functions under this Law:

Provided always that the Inspector shall only have access to the account of a depositor of a licensee or to any information, matter or thing relating to or concerning the affairs of any customer of a licensee under the authority of an order of the Judge of the Grand Court made on the ground that there are no means of obtaining the information required by him.

(4) The Inspector with the approval of the Administrator in Council may in writing authorize any other person to assist the Inspector in the performance of his functions under this Law.

(5) Any person who fails to comply with any requirement made pursuant to subsection (3) by the Inspector or any person authorized under subsection (4) of this section shall be guilty of an offence against this Law and shall be liable on summary conviction to a fine not exceeding five hundred pounds or to a term of imprisonment not exceeding six months or to both such fine and imprisonment.

**Powers of the
Administrator
in Council.**

9. - If in the opinion of the Administrator in Council a licensee is carrying on its business in a manner detrimental to the public interest or to the interests of its depositors or other creditors or is either in the Islands or elsewhere contravening the provisions of this or any other Law or of any Order or Regulations made under this Law, the Administrator in Council may from time to time as may to him seem necessary, require forthwith to take such steps as he may consider necessary that licensee to rectify the matter or may make an order revoking the licence of such licensee and requiring its business in the Islands to be wound up.

**Preservation
of secrecy.**

10 - (1) Except for the purpose of the performance of his duties or the exercise of his functions under this Law or when lawfully required to do so by any court of competent jurisdiction within the Islands or under the

provisions of any Law of the Islands, no person shall disclose any information relating to any application by any person under the provisions of this Law or to the affairs of a licensee or of any customer of a licensee which he has acquired in the performance of his duties or the exercise of his functions under this Law.

(2) Every person who contravenes the provisions of subsection (1) of this section shall be guilty of an offence against this law and shall be liable on summary conviction to a fine not exceeding one thousand pounds or to a term of imprisonment not exceeding one year or to both such fine and imprisonment.

11. - (1) Whenever the Administrator in Council is of the opinion that any action under section 4 (6), section 6 or section 9 of this Law should be taken against a licensee, he may forthwith suspend the licence of such licensee and before taking such action the Administrator in Council shall give that licensee notice in writing of his intention so to do setting out in such notice the grounds on which he proposes to act and shall afford the licensee within such time as may be specified therein not being less than seven days an opportunity of submitting to him a written statement of objections to such action, and thereafter the Administrator in Council shall advise the licensee of the decision.

Administrator
in Council
may suspend
licence.

(2) Whenever the Administrator in Council shall suspend a licence under subsection (1) of this section he may cause notice of such suspension to be published in the Islands by Government Notice.

12. - (1) If a Justice of the Peace is satisfied by information on oath given by the Inspector or by a person authorized under section 8 (4) of this Law to assist the Inspector either --

Power of
search.

- (a) that a licence has been suspended; or
- (b) that there is reasonable ground for suspecting that an offence against this Law has been or is being committed and that evidence of the commission of the offence is to be found at any premises specified in the information, or in any vehicle, vessel or aircraft so specified;

or

- (c) that any books, records, vouchers, documents cash or securities which ought to have been produced under section 8 (3) of this Law and have not been produced are to be found at any such premises or in any such vehicle, vessel or aircraft,

he may grant a search warrant authorizing the Inspector or such person authorized under section 8 (4) or any peace officer together with any other person named in the warrant and any other peace officers, to enter the premises specified in the information or, as the case may be, any premises upon which the vehicle, vessel or aircraft so specified may be, at any time within one month from the date of the warrant, and to search the premises or, as the case may be, the vehicle, vessel or aircraft.

(2) The person authorized by such warrant as aforesaid to search any premises or any vehicle, vessel or aircraft may search every person who is found in or whom he has reasonable ground to believe to have recently left or to be about to enter those premises or that vehicle, vessel or aircraft, as the case may be, and may seize any books, records, vouchers, documents, cash or securities found in the premises or in the vehicle, vessel or aircraft which he has reasonable ground for believing to be evidence of the commission of any offence against this Law or any such books, records, vouchers, documents, cash or securities found in the premises or in the vehicle, vessel or aircraft which he has reasonable ground for believing ought to have been produced under section 8 (3) of this Law,

Provided that no female shall, in pursuance of any warrant issued under this subsection be searched except by a female.

(3) Where by virtue of this section a person has any power to enter any premises he may use such force as is reasonably necessary for the purpose of exercising that power.

(4) Every person who shall obstruct the Inspector or any other person in the exercise of any powers conferred on him by virtue of this section shall be guilty of an offence against this Law and shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

13. - The Administrator in Council may make regulations for all or any of the following purposes -

Regulations.

- (a) to prescribe the information, particulars and references which may be prescribed under section 4 (1) and section 6 (3) of this Law;
- (b) generally for carrying the purposes or provisions of this Law into effect.

14. - (1) The provisions of this Law shall have effect in addition to and not in derogation of any other provisions having the force of law in the Islands.

Saving.

(2) This Act shall not apply to the Post Office Savings Bank.

15. - (1) An appeal shall lie to the Grand Court from any decision of the Administrator in Council -

Appeal.

- (a) revoking a licence under section 4 (6), section 6 (5) or section 9;
- (b) withdrawing any approval under section 6 (4);
or
- (c) requiring a licensee to take certain steps which the Administrator in Council may specify under section 9.

(2) An appeal against the decision of the Administrator in Council shall be on motion. The appellant within twenty-one days after the day on which the Administrator in Council has given its decision shall serve a notice in writing signed by the Appellant or his Counsel or Attorney on the Administrator of his intention to appeal and of the general ground of his appeal:

Provided that any person aggrieved by the decision of the Administrator in Council may upon notice to the

Administrator apply to the Grand Court for leave to extend the time within which the notice of appeal prescribed by this section may be served, and the Grand Court upon the hearing of such application may extend the time within which the notice of appeal prescribed by this section may be served, and the Grand Court upon the hearing of such application may extend the time prescribed by this section as it deems fit.

(3) The Administrator shall upon receiving the notice of appeal transmit to the Clerk of the Court without delay a copy of the decision and all papers relating to the appeal:

Provided that the Administrator in Council shall not be compelled to disclose any information if it is considered that the public interest would suffer by such disclosure.

(4) The Clerk of the Court shall set the appeal down for argument on such day, and shall cause notice of the same to be published in such manner, as the Grand Court may direct.

(5) At the hearing of the appeal the Appellant shall, before going into the case, state all the grounds of appeal on which he intends to rely and shall not, unless by leave of the Grand Court, go into any matters not raised by such statement.

(6) The Grand Court may adjourn the hearing of the appeal and may upon hearing thereof confirm, reverse, vary or modify the decision of the Administrator in Council or remit the matter with the opinion of the Grand Court thereon to the Administrator.

(7) An appeal against a decision of the Administrator in Council shall not have the effect of suspending the execution of such decision.

Section 5.

SCHEDULE

Canadian Imperial Bank of Commerce
The Bank of Nova Scotia
Bank of London & Montreal Limited
Barclays Bank D.C.O.
First National City Bank
The Chase Manhattan Bank
E.D. Sassoon Banking Company Limited
Butlers Bank Limited
The Bank of Nassau Limited
World Banking Corporation Limited
Trust Corporation of Bahamas Limited
Arawak Trust Company Limited
First National Trust Company (Bahamas) Limited
The Bank of Nova Scotia Trust Company (Bahamas) Limited
The Chase Manhattan Trust Corporation Limited
Bahamas International Trust Company Limited.

Passed by the Assembly this 14th day of March 1966

J.A. CUMBER
President

HOPE D.E. GLIDDEN BORDEN
Acting Clerk of the Legislative Assembly