



TRINIDAD AND TOBAGO
Act No. 26 of 1964

[L.S.]

AN ACT to make provision for the licensing of commercial banks and for regulating the business of banking.

[On Proclamation]

BE IT ENACTED by the Queen's Most Excellent Majesty, by ^{Enactment} and with the advice and consent of the Senate and House of Representatives of Trinidad and Tobago, and by the authority of the same, as follows :—

Preliminary

1. (1) This Act may be cited as the Banking Act, 1964. Short title

(2) This Act shall come into operation on a day to be appointed by the Governor-General by Proclamation published in the *Gazette*.

Interpretation

2. In this Act—

- (a) “bank” means any domestic or foreign company licensed under this Act to carry on the business of banking ;
- (b) “business of banking” means the business of receiving of deposits of money from the public on current account or deposit account which may be withdrawn on demand, by cheque, draft or order and generally the undertaking of any business appertaining to the business of commercial banking including the performance of the functions and duties of a trustee, administrator, executor or attorney ;
- (c) “Central Bank” means the Central Bank of Trinidad and Tobago established under the Central Bank Act, 1964 ;
- (d) “Court” means the High Court of Justice of Trinidad and Tobago ;
- (e) “domestic company” means a company incorporated under the Companies Ordinance, Ch. 31. No. 1 ;
- (f) “foreign company” means a company incorporated outside of Trinidad and Tobago but registered under the Companies Ordinance, Ch. 31. No. 1 ;
- (g) “Inspector” means the Inspector of Banks appointed under sub-section (1) of Section 19, of this Act ;
- (h) “licence” means a licence granted under this Act ;
- (i) “Minister” means the Minister to whom responsibility for the subject of finance has been assigned.

PART I

Licensing of Banks

3. (1) No person other than a bank shall carry on the business of banking in Trinidad and Tobago. Restriction on carrying on the business of banking

(2) Any person who contravenes this section is guilty of an offence and is liable on summary conviction to a fine of five thousand dollars or imprisonment for two years both such fine and such imprisonment ; and in the case of a continuing offence to a further penalty of five hundred dollars for each day on which the offence is continued after conviction thereof.

(1) Every application for a licence to carry on the business of banking shall be made to the Minister through the Central Bank. Application for a licence

The Minister, after consultation with the Central Bank may in his discretion grant or refuse such application.

(3) Every application shall be in writing and shall be accompanied by—

- (a) a statement giving the name of the applicant, its authorised capital, the address of its registered office in Trinidad and Tobago and the names and addresses of its directors ;
- (b) a certified copy of the memorandum and articles of association or other instrument under which the applicant is incorporated ;
- (c) an audited or certified copy of the latest balance sheet of the applicant ;
- (d) such further information as the Minister or the Central Bank may require.

5. (1) A licence may be granted to a domestic company only if— Restrictions on the granting of licences to companies incorporated in Trinidad and Tobago

- (a) it has an authorised capital of at least five hundred thousand dollars ;
- (b) at least three hundred thousand dollars of its authorised capital has been subscribed ;
- (c) at least two hundred thousand dollars or thirty per centum of its authorised capital, whichever is the greater, has been paid up in cash.

Restrictions
on the granting
of licences
to companies
incorporated
outside of
Trinidad and
Tobago

Ch. 31 No. 1.

(2) A licence may be granted to a foreign company only if it—

(a) has the minimum capital requirements specified in paragraphs (a), (b) and (c) of subsection

(b) is registered under the provisions of the Corporation Ordinance;

(c) supplies the Central Bank with a certificate certified by one of its directors of memorandum and articles of association and instrument under which it is incorporated;

(d) designates and notifies to the

(i) its principal office in Trinidad and Tobago;

(ii) by name, one of its officers or directors or the Bank's authorised agent in Trinidad and Tobago;

(iii) by name, another of its officers or directors in the absence or inability of the officer or director named under sub-paragraph (ii) to attend to his place; and

(e) such further information as the Minister and the Central Bank may require.

(3) It shall be a condition of every licence granted to a bank to which subsection (2) applies that it shall notify the Central Bank of any change of—

(a) its principal office in Trinidad and Tobago; or

(b) either or both of the officers designated pursuant to sub-paragraphs (ii) and (iii) of paragraph (d) of subsection (2).

(4) The Minister may make such regulations as he may deem expedient regulating the establishment of branches of existing banks.

Provisional
Licences.

Schedule

6. (1) Notwithstanding the provisions of sections 3, 4 and 5, the Minister shall grant provisional licences with effect from the commencement of this Act to the banks specified in the Schedule.

(2) The banks specified in the Schedule shall, within one hundred and twenty days from the date of the grant of a provisional licence, make an application in writing to the Minister through the Central Bank for a licence and such application shall—

(a) in the case of a domestic company be accompanied by documents specified in subsection (3) of section 4; and

4. or of
of
doll
after
4.
busine
the Cer
Bank, m
(2)

(b) in the case of a foreign company by the documents and information specified in subsection (2) of section 5.

7. (1) When an application for a licence is made, and the Minister is satisfied that all the provisions of this Act have been complied with, the Central Bank shall on behalf of the Minister issue a licence renewable annually in such form as it may prescribe on payment of the licence fee as is provided in sub-section (2) and notice of such issue shall be published in the *Gazette*. Issue of licence

(2) Subject to subsection (3), every bank licensed under this Act shall pay to the Central Bank an annual licence fee of five hundred dollars. Licence fee

(3) Banks shall not be required to pay a licence fee more than once in any calendar year.

(4) All licence fees paid under this Act shall be credited to the general revenue of the Government and shall form part of the Consolidated Fund. Licence fees to form part of the Consolidated Fund

8. (1) Except with the approval of the Minister, no person other than a bank shall trade or carry on any business or undertaking under any name or title of which the word "Bank" or any grammatical variation of the said words form part. Restriction on the use of title "bank"

(2) Any person who contravenes the provisions of subsection (1) is liable on summary conviction to a fine of one thousand dollars or to imprisonment for a term of twelve months or to both such fine and such imprisonment. Penalty

9. (1) The Minister may, at any time, after consultation with the Inspector and the Central Bank, by order revoke a licence for any contravention of the provisions of this Act or of any order made thereunder. Revocation of licences

(2) Before making an order under subsection (1), the Minister shall give the bank or person concerned notice in writing of his intention so to do, specifying therein the grounds upon which he proposes to make the order and shall require the bank or person to submit to him within a specified period a written statement of objections to the making of the order and thereafter, the Minister shall advise the bank or person of his decision.

Appeal

(3) If any bank or person is aggrieved by any order made under subsection (1), that bank or person may appeal to the Court within fourteen days of the date of such order, setting forth the grounds of such appeal, and the Court may revoke or confirm the said order.

Inspector
in charge
of assets

(4) When the Minister proposes to make an order under subsection (1), he may direct that the Inspector shall take charge on the premises of the assets of the bank or any portion thereof for the purpose of safeguarding the interests of depositors, creditors and shareholders of the bank until any such appeal shall have been determined.

Appointment
of liquidator.
Regulations

10. When an order is made under subsection (1) of section 9 revoking a licence, and such order is not revoked by the Court, the Inspector shall apply to the Court for an order for the winding up of the Bank.

(2) The Governor-General shall make such regulations as may be deemed necessary or expedient governing the procedure to be adopted by the Inspector in winding up the affairs of any bank whose licence under this Act has been revoked.

PART II

Directors and Officers

11. (1) Any person who

Persons
debarred
from bank
management

(a) has been a director of, or who has been concerned in the management of a bank which has been wound up by a court; or

(b) who has been convicted by a court for an offence involving dishonesty and has not received a full pardon for that offence,

shall not, without the express authorisation of the Minister, act or continue to act as a director of, or be concerned in the management of any bank.

(2) Any person who contravenes the provisions of subsection (1) is guilty of an offence and is liable on summary conviction to a fine of one thousand dollars or to imprisonment for one year or to both such fine and such imprisonment.

12. A director of a domestic company which is licenced Loans to
Directors as a bank under this Act shall not be present or vote at a meeting of the board when a loan or advance to himself or to a firm of which he is an employee or a member or to a corporation in which he owns twenty-five per centum or more of its authorised share capital or of which he is director or employee is under consideration, unless such loan or advance is to a corporation controlled by that bank and all the issued capital shares except the qualifying shares of directors are owned by that bank.

13. (1) No officer or employee of a bank shall act as agent Restriction
on an officer
or employee
of banks
acting as
insurance agents for any insurance company or for any person in the placing of insurance, nor shall that bank exercise pressure upon a borrower to place insurance for the security of a bank in any particular insurance agency.

(2) Nothing in subsection (1) precludes the bank from requiring such insurance to be placed with insurance companies approved by it.

PART III

Prohibitions

14. (1) A bank shall not directly or indirectly Prohibitions
- (a) engage in any trade except so far as may be necessary in the ordinary course of business operations and services, including the satisfaction of debts due to such bank and the due performance of its functions as a trustee, executor, administrator or attorney ;
 - (b) acquire land except so far as may be necessary
 - (i) for the purpose of conducting its business or housing its officers or employees ;
 - (ii) for the satisfaction of debts due to such bank and the due performance of its function as a trustee, executor, administrator or as attorney for any such person ;
 - (c) acquire or deal in its own shares or lend money or make advances on the security of its own shares ;
 - (d) beneficially hold in fee simple for any period exceeding five years from the date of acquisition land acquired in the course of satisfaction of

debts due to such bank ; but shall forthwith after the expiry of that period sell or otherwise dispose of the land absolutely so that the bank no longer has, directly or indirectly, any interest or control in respect thereof except by way of security ;

(e) in the case of a company licensed as a Bank under this Act.

(i) grant unsecured credit facilities to any of its directors in a principal amount exceeding five per centum of the sum of its paid up capital and reserve fund ;

(ii) grant unsecured credit facilities in a principal amount exceeding five per centum of the sum of its paid up capital and reserve fund to any firm or corporation in which such bank, its manager or a director has an interest in an amount equivalent to ten per centum of its paid up capital or more ;

(iii) grant unsecured credit facilities to any other officer or employee thereof beyond the amount of two years emoluments of such officer or employee or five per centum of its paid up capital, whichever is the less ;

(iv) grant unsecured credit facilities to any one person exceeding in the aggregate ten per cent. of its paid up capital and reserve fund or of such other proportion thereof as the Minister may from time to time approve ;

(v) pay any dividend on its shares, until all its capitalised expenditure (including preliminary expenses, organisation expenses, share-selling, commission and brokerage) not represented by tangible assets has been completely written off ;

(2) The Minister may direct that the time specified in paragraph (d) of subsection (1) for the sale or disposal of land be extended for a further period not exceeding three years.

(3) Any bank which contravenes any of the provisions of subsection (1) is guilty of an offence and liable on summary conviction to a fine of one thousand dollars.

PART IV

Cash Reserves, Reserve Fund, Maximum
Liability and Liquid Assets

15. Subject to section 27, a bank shall maintain a reserve fund to which at the end of each financial year there shall be transferred ten per cent. of the net profit of the bank in that year after deduction of taxes until the amount at the credit of the reserve fund is equal to the paid up capital of the bank.

Reserve Fund

16. Subject to section 27, no bank shall incur in Trinidad and Tobago deposit liabilities of an amount exceeding twenty times its paid up capital and reserve fund.

Maximum liability in Trinidad and Tobago

17. (1) A bank shall so conduct its business as to ensure that in the placing of its liquid assets preference is at all times given to short-dated instruments originating in Trinidad and Tobago.

Preference to Trinidad and Tobago securities

Power of Minister to fix ratio

(2) The Central Bank may prescribe the percentage which the liquid assets of a bank should bear to its respective total deposit liabilities and the percentage which its respective liquid assets originating in Trinidad and Tobago should bear to the total of its liquid assets.

PART V

Inspection of Banks

18. (1) The Governor-General shall from time to time appoint a fit and proper person to be Inspector of Banks.

Appointment, removal and remuneration of Inspectors and Assistants

(2) The Inspector shall be appointed to hold office during good behaviour but may be removed from office by the Governor-General for misbehaviour or inability or failure to perform his duties properly.

(3) The Inspector while holding office shall not occupy any other office of employment whether remunerated or not.

(4) In the event of absence or inability of the Inspector from whatever cause arising, the Governor-General may appoint any qualified person to act temporarily in place of the Inspector.

(5) The Governor-General shall appoint such persons as may be deemed necessary to assist the Inspector in the performance of his duties.

(6) The Inspector and such persons as are appointed to assist him in the performance of his duties shall be paid such remuneration and allowances as may be determined by the Minister.

(7) Notwithstanding the provisions of subsections (1), (3), (5) and (6), the Governor-General may, on such terms and conditions as may be agreed upon with the Governor of the Central Bank, from time to time appoint

- (a) an officer or employee of the Central Bank to be the Inspector of Banks;
- (b) officers or employees of the Central Bank to assist the Inspector in the performance of his duties.

(8) A person appointed or employed under this section shall not borrow money from a bank unless he obtains the permission of the Minister to do so.

Duties of
Inspector
Access to books
and records

19. (1) The Inspector shall—

- (a) examine all applications for licences and make recommendations thereon to the Central Bank and to the Minister ;
- (b) make or cause to be made such examination and enquiry into the affairs or business of each bank as he may deem to be necessary or expedient, for the purpose of satisfying himself that the provisions of this Act, and the provisions of Part V of the Central Bank Act are being observed and that the bank is in a sound financial condition ; and
- (c) at the conclusion of each examination and enquiry, report thereon to the Minister and to the Governor of the Central Bank.

Penalty for
failure to
comply with
requirements
of Inspector

(2) In the performance of his duties under this Act, the Inspector shall at all reasonable times have the right of access to all books, records, vouchers, documents and securities of any bank, and to call upon any director, officer, auditor or employee of any bank for any information, explanation or both such information and explanation as he may deem necessary for the due performance of his duties.

(3) Any person who fails to comply with any requirement made pursuant to subsection (2) by the Inspector or any other person appointed under section 18 and duly authorised by him in writing, is guilty of an offence and is liable on summary conviction to a fine of one thousand dollars or to twelve months imprisonment.

20. (1) In any case where the Inspector is satisfied, after the examination of the affairs of any bank, or upon information received from such bank, that it is insolvent or is likely to become unable to meet the demands of its depositors, or that its continuation in business is likely to involve loss to its depositors or creditors, the Inspector shall report such findings to the Minister and to the Central Bank.

Inspector to
report
insolvency, &c.
of bank
Procedure.

(2) When a report is submitted by the Inspectors under the provisions of subsection (1), the Central Bank may, after considering all the relevant facts and circumstances, and with the approval of the Minister, order such bank to suspend business in Trinidad and Tobago forthwith and may order the Inspector to take charge of all books, records and assets of the Bank and to take such measures as may be necessary to prevent the continuation of business by that bank.

(3) Notwithstanding the provisions of any other law, no action or proceedings may be instituted in any court for the purpose of securing the enjoining, review or revocation of any order made under subsection (2) or in respect of any loss or damage incurred, or likely to be or alleged to be incurred by reason of such order.

(4) An order by the Central Bank under subsection (2) shall cease to have effect—

(a) if the Central Bank makes an Order permitting a bank to resume business either unconditionally or subject to such conditions as the Central Bank may deem necessary in the public interest or in the interests of the depositors and other creditors of such bank ; or

(b) upon the expiration of a period of thirty days from the date on which it is made, unless the Central Bank causes the Inspector to apply to the Court for an order for the winding up of such bank.

(5) When an order is made by the Central Bank under paragraph (a) of subsection 4 permitting the resumption of business by any bank subject to such conditions as may be specified in the order, the bank may apply to the Court for an order to rescind the said order and the Court may permit such bank to resume business unconditionally, or subject to such further modification of the order as the Court may deem appropriate.

(6) In any such application, the Inspector shall be joined as a respondent with the Central Bank.

(7) In any case where application is made by the Inspector for the winding-up of any bank in accordance with paragraph (b) of subsection (4)

(a) such bank shall not carry on business during the pendency of the application unless it is authorised so to do by the court and except in accordance with such conditions, if any, as may be specified by the Court ; and

(b) the Court, if it is of the opinion after such enquiry as it may consider necessary, that such bank is not insolvent, may permit such bank to resume business either unconditionally or subject to such conditions as the Court may consider necessary in the public interest or in the interests of the depositors and other creditors thereof.

(8) In any case where an order of a Court is made, whether in pursuance of an application under this section or otherwise, for the winding-up of any bank, then, notwithstanding the provisions of any other law, the Inspector or such other person as may be appointed by the Minister on the advice of the Central Bank shall be appointed as liquidator for the purposes of such winding-up.

Rules as to
proceedings by
the Court

21. Rules of Court shall provide for regulating the procedure to be adopted in making applications to the Court under the provisions of section 20, and for the enforcing of orders made thereunder and for all matters incidental thereto.

22. (1) A person appointed or employed under section 18 shall not disclose any information regarding the operation of any bank to any other person except the Inspector or such other person as may be designated by the Minister or by the Governor of the Central Bank. Disclosure of information prohibited

(2) A person appointed or employed under section 18 shall not disclose the affairs of a customer of a bank other than for the purposes of this Act or of the Central Bank Act.

(3) Any person who contravenes any of the provisions of this section is guilty of an offence and liable on summary conviction to a fine of one thousand dollars or imprisonment for twelve months or to both such fine and imprisonment. Penalty

Part VI—General

23. (1) Every bank shall in relation to its operations in Trinidad and Tobago deliver to the Central Bank within such a period as may be specified by the Central Bank and in such form as it may from time to time approve the following documents, namely :— Periodical statements to be submitted by banks to Central Bank

- (a) a monthly statement showing its assets and liabilities ;
- (b) a quarterly analysis of its loans and advances ; and
- (c) a yearly statement showing its earnings and expenses.

(2) No statement or return shall in any case be required in respect of the affairs of any particular customer of a Bank.

24. (1) Every bank shall within sixty days after the end of its financial year publish in the *Gazette* and a daily newspaper a statement showing all accounts payable by the bank in Trinidad and Tobago in respect of which, during a period of fourteen years or any longer period, as the case may be, no transaction has taken place and no statement of account has been requested or acknowledged by the creditor. Accounts remaining inoperative for more than fourteen years

(2) Every statement published under subsection (1) shall require the person to whom the account is payable or his legal personal representative, as the case may be, to submit a claim to the Bank within three months from the date of publication in the *Gazette*.

(3) When any of the sums included in the statement published under subsection (1) remains unclaimed for a period of three months after publication of the statement in the *Gazette*, such sums after deduction therefrom of the costs of publication shall be paid to the Central Bank and shall be credited to the general revenue of the Government and paid into the Consolidated Fund.

(4) Nothing contained in this section shall be deemed to affect the rights of any depositor to recover a debt due to him by the bank.

(5) Every bank publishing such a statement and thereafter paying to the Central Bank any sums under the provisions of this section shall be indemnified by the Government from any loss which they may incur as a result of any such payment.

Publication of
consolidated
balance sheet

25. (1) Every bank shall, when required by the Central Bank, publish in a daily newspaper and exhibit in a conspicuous place in each of its offices a consolidated balance sheet of all its operations both locally and abroad as the case may be.

(2) Any bank which fails to comply with the provisions of subsection (1) is guilty of an offence and is liable on summary conviction to a fine of five hundred dollars.

Power of
Minister to
obtain
information

26. (1) Notwithstanding the provisions of sections 23 and 25 the Minister may, by instrument in writing, require the manager of any bank to supply within such time as may be specified in the instrument any information relating to the financial position of the bank in Trinidad and Tobago.

(2) A manager of a bank who fails to supply information required under subsection (1) within the time specified in such request is guilty of an offence and liable on summary conviction to a fine of five hundred dollars.

27. Any bank may apply to the Minister to be exempted from complying with the provisions of paragraph (c) of subsection (2) of section 5 and sections 15 and 16 and the Minister, after consultation with the Central Bank, may by order grant the application if he is satisfied that the financial position of the bank is sound.

Exemptions

28. No bank may be licensed by any name that includes any of the words "central", or "reserve".

Prohibition of certain titles

29. Every order made under this Act shall be published in the *Gazette*.

Orders of Central Bank to be published in the *Gazette*

PART VII

Non-application of Act, Repeal

30. (1) The provisions of this Act do not apply to—
- (a) the Agricultural Credit Bank of Trinidad and Tobago established under the *Agricultural Credit Bank Ordinance*;
 - (b) the Trinidad and Tobago Post Office Savings Bank established under the *Post Office Savings Bank Ordinance*; or
 - (c) The Trinidad Co-operative Bank Limited established under the *Local Savings Bank Ordinance*.

Non-application of Act to certain Banks

Ch. 23. No. 5

Ch. 35. No. 5

Ch. 35. No. 4

(2) Notwithstanding the provisions of subsection (1), the Central Bank may, with the approval of the Minister, require information from, enquire into, and examine the affairs of the institutions mentioned in paragraphs (a), (b) and (c) of subsection (1) and such other financial institutions, persons or classes of persons as may be prescribed by the Minister.

31. The provisions of the Aliens (Landholding) Ordinance do not apply to banks licensed under this Act.

Non-application of Aliens (Landholding) Ordinance, Ch. 21. No. 3

32. The Alien Bankers Ordinance and the Bankers Licences and Bank Notes Ordinance are hereby repealed.

Repeal Ch. 21. No. 4 Ch. 35. No. 3

The Schedule

1. Barclays Bank D.C.O.
2. The Royal Bank of Canada.
3. Canadian Imperial Bank of Commerce.
4. The Bank of Nova Scotia.
5. Bank of London and Montreal.
6. The Chase Manhattan Bank.

Passed in the House of Representatives this 11th day of December, 1964.

G. R. LATOUR
Clerk, House of Representatives

Passed in the Senate this 8th day of December, 1964.

J. E. CARTER
Acting Clerk of the Senate