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CHAPTER 35. No. 4.

LOCAL SAVINGS BANKS.

AN ORDINANCE TO CONTROL LOCAL SAVINGS BANKS.

Ordinance
Ch.35. No.4-
1940.

[1st December, 1934.]

Commence-
ment.

1. This Ordinance may be cited as the Local Savings Banks Ordinance. Short title.

2. For the purposes of this Ordinance—

Interpreta-
tion.

“ bank ” means an undertaking which purports to carry on or does carry on any business in the nature of banking in the Colony, including the receipt of money on deposit or for safe keeping for the benefit of the depositors, whether with or without any obligation on the part of such bank to pay interest thereon and whether such deposit be repayable on demand or subject to notice or other condition;

“ board ” means the board of directors of a bank;

“ guarantee fund ” means the fund in this Ordinance required to be established and maintained by a bank as security for the purpose in that behalf in this Ordinance set forth;

“ Registrar ” means the Registrar General.

3. The provisions of this Ordinance shall not apply—

Exemptions
from appli-
cation of
Ordinance.

(a) to a bank licensed under the Bankers Licences and Bank Notes Ordinance, nor shall the provisions of that Ordinance apply to a bank licensed hereunder;

(b) to Societies registered under the Building Societies Ordinance;

(c) to Societies registered under the Friendly Societies Ordinance.

LICENCE.

Prohibition of carrying on banking without Governor's licence.

4. (1) No person, partnership, firm or company shall have any right, power or authority to establish or maintain any undertaking or carry on any business in the nature of a bank without first having obtained a licence so to do, which licence the Governor in Council is hereby empowered to grant in such form and subject to such restrictions and conditions as he may deem fit to impose.

Penalty.

(2) If any person, partnership, firm or company carries on any undertaking or business in the nature of a bank in contravention of this section or of any restriction or condition specified in the licence, every person who is responsible for the contravention including every director of a company shall be liable to a fine of two hundred and forty dollars.

Contents of licence.

5. The licence shall, in addition to any such restrictions and conditions imposed, also specify—

(a) the name under which the bank shall carry on business, and the words "Savings Bank Limited" shall be the last words in such name;

(b) the names of the proposed directors;

(c) the place where the registered office of the bank is to be situate;

(d) the area within which the bank may operate.

Stamp duty on licence.

6. (1) Every licence granted under this Ordinance shall continue in force from the day on which it is granted until the 31st of December next ensuing and shall be subject to a stamp duty of \$4.80 which shall be paid by the licensee in accordance with the provisions of the Stamp Duty Ordinance.

Renewal of licence.

(2) A licence may be renewed by the endorsement of the renewal thereof by the Registrar on the original licence, and each renewal shall be subject to the payment of the sum of \$4.80 to the Accountant General for the use of the Colony.

(3) If default is made in complying with the provisions of subsection (2) of this section, every director, manager, secretary or other officer of the bank who knowingly authorises or permits the default shall be liable to a fine of two hundred and forty dollars. Penalty for default.

7. The bank shall not commence business until it has obtained the necessary licence and has caused such licence to be registered in the office of the Registrar nor until the guarantee fund required by this Ordinance has been established. Commencement of business.

REGISTRATION.

8. (1) For the purposes of registration of such licence an application to register shall be made to the Registrar. Registration.

(2) The application shall be signed by at least two proposed directors of the bank.

(3) The application shall be accompanied by a copy of the proposed bye-laws of the bank for registration.

(4) The Registrar shall satisfy himself that the bye-laws are not contrary to this Ordinance and shall thereupon register the licence and the bye-laws and certify under his hand that the bank is registered and shall issue a copy of his certificate to the bank.

(5) The bank shall thereupon become incorporated under this Ordinance with the liability of its members limited to the amount, if any, unpaid on the shares respectively held by them.

(6) The bank may thereafter sue and be sued in its registered name.

DIRECTORS AND REGISTERED OFFICE.

9. (1) The affairs of the bank shall be managed and administered by and under authority of a board consisting of not less than two directors at its registered office. Directors.

(2) Notice of any change of directors or of the registered office shall be given to the Registrar within fourteen days and he shall record the same.

(3) Every bank shall affix its name on the outside of

its registered office in a conspicuous position in letters easily legible.

(4) If default is made in complying with the provisions of subsections (2) or (3) of this section, every director, manager, secretary or other officer of the bank, who knowingly authorises or permits the default shall be liable to a fine of two hundred and forty dollars.

BYE-LAWS.

Bye-laws.

10. (1) The bank shall make bye-laws relating to the conduct of the affairs of the bank, which bye-laws shall contain the several matters hereunder mentioned—

(a) the number of directors from time to time, such number to be not less than two nor more than seven;

(b) the terms of service, appointment, qualifications and remuneration of directors;

(c) the appointment, functions, duties and removal of all officers, agents and servants of the bank;

(d) the security to be given by officers, agents and servants of the bank and their remuneration;

(e) the qualification for admission to membership as shareholders and the transmission and assignment of shares;

(f) the day, time and place for holding the annual meeting of the members of the bank;

(g) the calling of meetings of the board and of members of the bank and the notice to be given of any such meeting;

(h) the quorum at any such meeting;

(i) the requirements as to proxies;

(j) the procedure in all things at any such meetings;

(k) the receipt and repayment of deposits or interest thereon, and the fixing and payment of dividends to members;

(l) the custody and use of the seal, if any;

(m) the determination or dissolution of the bank;
and

(n) the conduct in all other particulars of the affairs of the bank.

(2) The board may at any time make any amendment of the bye-laws, and such amendment shall not be valid unless approved by a resolution of a majority of members of the bank present at a general meeting and a copy thereof registered with the Registrar.

(3) If the Registrar is satisfied that such amendment of the bye-laws is not contrary to this Ordinance he shall register the same.

MEMBERSHIP.

11. The members of the bank shall consist of the shareholders of the bank who shall be required to hold shares to the value of at least \$4.80 fully paid. Membership,

DEPOSITS.

12. (1) The bank may receive deposits of money on such terms as the bye-laws of the bank prescribe, and such deposits may be received from and withdrawn by any person of whatever age, status or condition of life, and whether such person is qualified by law to enter into contracts or not. Bank may receive deposits.

(2) No deposit shall be received which would make the amount at the credit of the account in respect of which the deposit is offered exceed \$240.00, and not more than one account shall be kept in respect of the same depositor, and in no case shall interest be paid or allowed to depositors in the bank in excess of three per centum per annum. Maximum.

13. (1) Any payment of the whole or part of any deposit or of any interest thereon, not exceeding \$24, made in good faith and in accordance with the bye-laws of the bank, shall discharge the bank from any claim by any person whomsoever in respect of the deposit or interest so paid, notwithstanding that the person making the deposit may have died or become insane or become otherwise incapacitated and that there is or is not a person qualified to represent such person other than the person to whom such payment is made. Certain payments valid.

(2) Upon the book or other paper given to the depositor representing the deposit or in or on which the deposit is entered, there shall be printed a copy of the last preceding subsection.

Bank may hold ten per centum of deposit.

14. (1) The bank may out of the moneys received on deposit by it hold for the purpose of paying withdrawals such amount as the directors shall determine, but not exceeding ten per centum of the total deposits in the bank.

(2) All moneys received on deposit and on hand at any time in excess of such amount shall be deposited by the bank in the Post Office Savings Bank or any other bank licensed under the provisions of the Bankers Licences and Bank Notes Ordinance.

Board may withdraw moneys from Post Office Savings Bank.

15. (1) The board may withdraw from the account of the bank in the Post Office Savings Bank or other bank in which a deposit is made and apply towards payment of the working expenses or for the purpose of augmenting the guarantee fund of the bank, such portion of the interest credited to the account of the bank as may be necessary.

(2) The board may also withdraw such portion of the amounts from time to time at the credit of the bank in the Post Office Savings Bank or such other bank for the purpose of using and investing the same in the name of the bank in the purchase of such bonds or other securities of the Government or of such other securities as the Registrar may approve, and may apply towards paying the working expenses or dividends or for the purpose of augmenting the guarantee fund of the bank, such portion of the interest or other profit received from such investments as represents the excess of the interest or profit so received over the interest paid or allowed by the bank to depositors.

(3) Except as aforesaid the moneys so at the credit of the bank in the Post Office Savings Bank or such other bank shall be withdrawn by the bank only for the purpose of the payment of withdrawals by depositors in the bank of amounts deposited by them and interest thereon, and shall be used and applied by the bank only for such purpose.

Bonds and other securities to be deposited with Registrar.

(4) All bonds and other securities which may be purchased by the board shall be deposited with the Registrar and, when the same or any part thereof are thereafter paid off or sold, the proceeds shall be deposited to the credit of the bank in the Post Office Savings Bank or such other bank.

16. (1) The bank shall not—

Restrictions
on powers.

(a) issue any bank note or note intended to circulate as money or as a substitute for money;

(b) lend money or make advances upon the security of bills of exchange or promissory notes except to members of the bank, and no such loans or advances shall in the case of any one individual member exceed a total amount of \$96 or be made to any member who is not *sui juris*;

(c) except as hereinafter provided, acquire any real estate;

(d) except as by this Ordinance permitted, invest, lend or dispose of any moneys received by it; nor

(e) except as specially provided in this Ordinance engage or be engaged in any trade or business.

(2) If a bank acts in contravention of this section, every director, manager, secretary or other officer of the bank, who knowingly authorises or permits the contravention, shall be liable to a fine of two hundred and forty dollars.

GUARANTEE FUND.

17. A fund (to be known as the guarantee fund) shall be established and maintained by the bank for the purpose of securing the repayment of the deposits made in the bank and interest thereon and the payment of all other debts and liabilities of the bank incurred in the management of the business thereof, provided however that the guarantee fund shall only be used in the event of the funds in the hands of the board for the purpose of paying such deposits, interest and other debts and liabilities being insufficient to pay the same, or in the event of the bank being dissolved.

Guarantee
fund by
the bank.

18. The guarantee fund shall consist of the following moneys and securities (other than moneys and securities left with the bank for safe custody), that is to say,—

The fund.

(a) all moneys and securities received by or paid to the bank, other than deposits and interest thereon and other than moneys specifically appropriated by this Ordinance or by the person from whom they are

received for the working expenses of the bank or for any other purpose in connection with the bank, other than the guarantee fund;

(b) securities and investments in which the bank is by this Ordinance authorised to invest the moneys of the fund.

Amount of fund.

19. The guarantee fund shall be in such sum as the Registrar may from time to time order, provided that such sum shall not at any time amount to less than \$240, and a separate account shall be kept by the bank in respect of such fund.

Investments.

20. (1) The bank may in its registered name invest the moneys of the guarantee fund in, or lend such moneys upon the following securities only, that is to say,—

(a) bonds, stocks or other securities of the Government;

(b) bonds or debentures of any municipal corporation in the Colony;

(c) any securities which are authorised investments under the Trustee Ordinance;

(d) such freehold or leasehold property as is required for the actual use and occupation of the bank for the management of its business: Provided that the bank shall be at liberty to bid for and acquire any freehold property given to it for securing the repayment of a mortgage debt in any mortgagee's suit at the instance of the bank.

(2) If a bank acts in contravention of this section, every director, manager, secretary, or other officer of the bank, who knowingly authorises or permits the contravention, shall be liable to a fine of two hundred and forty dollars.

Dissolution for failure to maintain fund.

21. Should the bank fail at any time to maintain such guarantee fund in the manner required by this Ordinance, the bank shall cease to receive deposits and shall be dissolved as hereinafter provided.

22. The moneys received on account or in respect of the guarantee fund or arising by way of interest from investment thereof and all property held by the bank and the proceeds thereof, shall be and remain the property of the bank and may, subject to the provisions of this Ordinance in regard thereto being fully observed and complied with, be disposed of and dealt with by the bank as the board determines.

Disposal of fund and properties of bank.

STATEMENTS.

23. (1) The bank shall in each and every year not later than the 31st of March file with the Registrar a balance sheet and statements showing the condition and business of the bank on the 31st of December for the whole of the preceding year, verified by the statutory declaration of the secretary and the chairman of the board.

Statements to be filed with Registrar.

(2) To every such balance sheet and statement shall be annexed a certificate from an accountant to be nominated by the Registrar certifying—

Certificate from accountant.

(a) that he has examined and audited the books of the bank and that he finds that such statement is a true statement of the affairs of the bank at the date named therein;

(b) that he has inspected the securities as shown in the balance sheet and found the same to be in order;

(c) that he has obtained certificates from the Post Office Savings Bank or other bank in which deposits have been made in verification of the respective balances shown in the balance sheet;

(d) that he counted the cash in hand during the course of the audit and found the same to be in order;

(e) that, to the best of his knowledge and belief, buildings and furniture are adequately covered against loss by fire and that he has examined the policies and seen receipts for current premiums;

(f) that the provisions of the Ordinance and the bye-laws of the bank have been complied with; and

(g) that he finds such statement, including the balance sheet, is a true statement of the affairs of the bank at the date named therein according to the best

of his belief and the information and explanations given to him and as shown by the books of the bank.

Penalty for default.

(3) If default is made in complying with the provisions of this section, every director, manager, secretary or other officer of the bank, who knowingly authorises or permits the default shall be liable to a fine of two hundred and forty dollars.

Contents of statement.

24. In such statements shall appear the following information, that is to say,—

(a) the amount due to depositors in the bank on the 31st of December;

(b) the amount of the guarantee fund and the nature of the investments thereof; and

(c) any other information as to the nature and extent of the business of the bank and in such detail as the Registrar may from time to time require.

Special returns.

25. (1) The Registrar may call for a special return from the bank in such form as he may determine at any time when in his judgment it is necessary or expedient.

(2) If default is made in complying with the provisions of subsection (1) of this section, every director, manager, secretary or other officer of the bank, who knowingly authorises or permits the default, shall be liable to a fine of two hundred and forty dollars.

Secrecy.

26. No officer of or person employed in the bank shall, except by direction of a Judge of the Supreme Court or of a Petty Civil Court or of a Magistrate, in any proceeding, civil or criminal, disclose the name of any depositor or the amount deposited or withdrawn by him.

Fees.
Schedule.

27. Except as may herein be otherwise prescribed, there shall be paid to the Registrar the fees specified in the Schedule hereto.

List of directors and members to be sent to Registrar.

28. (1) Every bank shall keep at its registered office a register wherein shall be entered the names and addresses and the occupations of its directors and members, and also

of contributors to the guarantee fund, and shall on the 31st of March in each year send to the Registrar a copy thereof together with the number of shares and the amount contributed by each such member and in the case of the guarantee fund the amounts contributed by each person.

(2) If default is made in complying with the provisions of this section, every person who is responsible for the default, including every director of the bank, shall be liable to a fine of two hundred and forty dollars.

29. Except as provided by paragraph (e) of section 30 hereof, the provisions of the Companies Ordinance shall not apply to banks registered under this Ordinance.

Companies Ordinance not to apply.

DISSOLUTION.

30. A bank shall terminate or be dissolved—

(a) upon the happening of any event declared by its bye-laws to be the determination of the bank;

(b) by dissolution in a manner prescribed by its bye-laws;

(c) by dissolution with the consent of three-fourths of the members testified by their signatures to the instrument of dissolution;

(d) by failing to comply with an order of the Registrar made under section 19 upon application by the Registrar of the Supreme Court for an order to wind up the bank as in the next succeeding paragraph;

(e) by an order of the Supreme Court to wind up the bank made as is directed in regard to companies by the Companies Ordinance, the provisions whereof except paragraph (4) of section 161 of the said Ordinance, shall apply to any such order.

Proceedings necessary for determination or dissolution.

31. The instrument of dissolution shall set forth—

(a) the liabilities and assets of the bank in detail;

(b) the number of members and the amount subscribed or contributed by them;

(c) the claims of depositors and other creditors and the provision to be made for their payment;

Contents of instruments of dissolution.

(d) the intended appropriation or division of the funds and property of the bank;

(e) the names of one or more persons to be appointed trustees for the special purpose and their remuneration:

Provided that alterations in the instrument may be made with the consent of three-fourths of the members testified by their signature thereto, which alterations shall, together with the instrument, be registered by the Registrar and be binding upon all the members of the bank.

Notice of
dissolution.

32. Notice of the commencement and termination of every dissolution or winding up shall be sent to the Registrar and be registered by him.

Power to
dissolve
bank after
investiga-
tion.

33. (1) Notwithstanding the provisions of section 30, on the application in writing of any three members of any bank, setting forth that the bank is unable to meet the claims of its members or depositors and that it would be for their benefit that it should be dissolved, and requesting an investigation into the affairs of the bank with a view to the dissolution thereof, the Registrar may investigate the affairs of the bank but shall, before so doing, give not less than two weeks' previous notice in writing to the bank at its registered office.

(2) Upon receiving any such application the Registrar may in his absolute discretion by notice to the applicants require that, before a day to be specified in the notice, a deposit of money not exceeding \$24 shall be paid to him by the applicants for the payment of any expenses in connection with such investigation.

(3) If on such investigation it appears that the bank is unable to meet the claims of its members or depositors and that it would be for their benefit that it should be dissolved, the Registrar may, if he considers it expedient so to do, award that the bank be and the same shall be dissolved and he shall direct in what manner the affairs of the bank are to be wound up: Provided that the Registrar may suspend his award for such period as he may deem necessary to enable the bank to make such alterations in its bye-laws as will in his judgment prevent the necessity of the award being made.

(4) The Registrar shall, within twenty-one days after the making of any award for dissolution under this section, cause notice thereof to be advertised in the *Royal Gazette*, and in one daily newspaper circulating in the Colony.

34. Where a bank is being dissolved in manner prescribed by its bye-laws or in pursuance of the consent of three-fourths of the members or by failing to comply with the Registrar's order made under section 19, the provisions of this Ordinance shall continue to apply in the case of the bank, as if the liquidators or other persons conducting the dissolution of the bank or the trustees appointed under the instrument of dissolution were the board of directors of the bank.

Obligations of liquidators and trustees on dissolution.

35. If a bank is dissolved in manner prescribed by its bye-laws or in pursuance of the consent of three-fourths of the members or for failing to comply with the Registrar's order made under section 19, the liquidators, trustees or other persons having the conduct of the dissolution shall within twenty-eight days from the termination of the dissolution send to the Registrar an account and balance sheet signed and certified by them as correct and showing the assets and liabilities of the bank at the commencement of the dissolution and the mode in which those assets and liabilities have been applied and discharged, and in default if so doing shall each be liable to a fine of two hundred and forty dollars.

Account and balance sheet to be sent to Registrar on dissolution.

OFFENCES—PROCEEDINGS.

36. (1) Penalties under this Ordinance shall be recoverable in the manner provided by the Summary Courts Ordinance.

Proceedings in regard to offences.

(2) Proceedings may be instituted at any time within two years from the time when the cause of complaint arose.

[SCHEDULE.

(Section 27.)

SCHEDULE.**Fees.**

	\$
For registering licence and bye-laws under section 8	2.40
For registering any amendment of bye-laws under section 10, for the first six amendments60
and for every additional amended bye-law12
For any certificate signed by the Registrar	1.20
For filing statement under section 23	1.20
For filing any notification under section 28	1.20
For registering instrument of dissolution	4.80
For registering each alteration of instrument of dissolution	1.20
For any notice under section 30 (e)	1.20
For any award under section 33	12.00
For filing account and balance sheet on dissolution under section 35	4.80
For every search of and examination of records of any bank60
For every copy of any record, for every 120 words24