



# Banking Act 1979

## 1979 CHAPTER 37

An Act to regulate the acceptance of deposits in the course of a business; to confer functions on the Bank of England with respect to the control of institutions carrying on deposit-taking businesses; to give further protection to persons who are depositors with such institutions; to make provision with respect to advertisements inviting the making of deposits; to restrict the use of names and descriptions associated with banks and banking; to prohibit fraudulent inducement to make a deposit; to amend the Consumer Credit Act 1974 and the law with respect to instruments to which section 4 of the Cheques Act 1957 applies; to repeal certain enactments relating to banks and banking; and for purposes connected therewith. [4th April 1979]

1—37. ....<sup>F1</sup>

### Textual Amendments

**F1** Ss. 1–37 repealed by [Banking Act 1987](#) (c. 22, SIF 10), s. 108(2), [Sch. 7 Pt. 1](#)

## PART IV

### MISCELLANEOUS AND GENERAL

#### 38 Amendments of Consumer Credit Act 1974.

(1) In section 74 of the <sup>M1</sup>Consumer Credit Act 1974 (certain agreements excluded from Part V of that Act) after subsection (3) (certain overdraft agreements excluded only where the Director General of Fair Trading makes a determination) there shall be inserted the following subsection:—

“(3A) Notwithstanding anything in subsection (3)(b) above, in relation to a debtor-creditor agreement under which the creditor is the Bank of England or a bank within the meaning of the Bankers’ Book Evidence Act 1879, the Director

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*Changes to legislation: There are currently no known outstanding effects for the Banking Act 1979. (See end of Document for details)*

shall make a determination that subsection (1)(b) above applies unless he considers that it would be against the public interest to do so” ;

and in subsection (4) of that section (certain agreements in writing falling within subsection (1)(b) or (c) subject to regulations as to form and content) for “(1)(b) or (c)”, in each place where it occurs, there shall be substituted “ (1)(c) ”.

(2) Nothing in sections 114 to 122 of the Consumer Credit Act 1974 (pledges) shall be taken to apply to bearer bonds and, accordingly, in paragraph (a) of subsection (3) of section 114 of that Act (exclusion of pledges of documents of title) after the word “title” there shall be inserted the words “ or of bearer bonds ”.

(3) In section 185(2) of the Consumer Credit Act 1974 (which relates to dispensing notices given by one or two or more debtors to whom running-account credit is provided) at the end of the proviso there shall be added the following paragraph:—

“(c) a dispensing notice which is operative in relation to an agreement shall be operative also in relation to any subsequent agreement which, in relation to the earlier agreement, is a modifying agreement”.

**Modifications etc. (not altering text)**

**C1** The text of ss. 38, 51(2), Sch. 6 Pt. I para. 1–3, 9(a)(b) and 10(a)(b) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

**M1** 1974 c. 39.

39—46 ..... F2

**Textual Amendments**

**F2** Ss. 39–46 repealed by Banking Act 1987 (c. 22, SIF 10), s. 108(2), Sch. 7 Pt. 1

**47 Defence of contributory negligence.**

In any circumstances in which proof of absence of negligence on the part of a banker would be a defence in proceedings by reason of section 4 of the <sup>M2</sup>Cheques Act 1957, a defence of contributory negligence shall also be available to the banker notwithstanding the provisions of section 11(1) of the <sup>M3</sup>Torts (Interference with Goods) Act 1977.

**Marginal Citations**

**M2** 1957 c. 36(13)

**M3** 1977 c. 32(122:2)

48— ..... F3

50.

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### Textual Amendments

**F3** Ss. 48–50 repealed by [Banking Act 1987 \(c. 22, SIF 10\)](#), s. 108(2), [Sch. 7 Pt. 1](#)

## 51 Consequential amendments and repeals.

- (1) The amendments in Part I of Schedule 6 to this Act being amendments consequential on the provisions of this Act, shall have effect, subject to the savings in Part II of that Schedule.
- (2) The enactments mentioned in Schedule 7 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

### Modifications etc. (not altering text)

**C2** The text of ss. 38, 51(2), Sch. 6 Pt. I para. 1–3, 9(a)(b) and 10(a)(b) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

## 52 Short title, commencement and extent.

- (1) This Act may be cited as the Banking Act 1979.
- (2) This Act extends to Northern Ireland.
- (3) This Act shall come into operation on such day as the Treasury may appoint by order made by statutory instrument; and different days may be so appointed for different provisions of this Act and for such different purposes of the same provision as may be specified in the order.
- (4) Any reference in any provision of this Act to “the appointed day” shall be construed as a reference to the day appointed for the purposes of that provision; and any reference in this Act to the day appointed for the purposes of any provision of this Act—
  - (a) shall be construed as a reference to the day appointed under this section for the coming into operation of that provision; and
  - (b) where different days are appointed for different purposes of that provision, shall be construed, unless an order under this section otherwise provides, as a reference to the first day so appointed.

### Modifications etc. (not altering text)

**C3** Power of appointment conferred by s. 52(3) partly exercised by [S.I. 1979/938](#), 1982/188, 1985/797 (the power has been fully exercised as regards all the unrepealed provisions of the Act except for Sch. 6 para. 10)

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## F4F4 SCHEDULES 1—5

### Textual Amendments

F4 Schs. 1–5 repealed by Banking Act 1987 (c. 22, SIF 10), s. 108(2), Sch. 7 Pt. 1

F4

## SCHEDULE 6

### CONSEQUENTIAL AMENDMENTS

#### PART I

#### ENACTMENTS AMENDED

##### *The Bankers' Books Evidence Act 1879 (c. 11)*

1 For section 9 of the Bankers' Books Evidence Act 1879 (meaning of “bank”, “banker”, and “bankers' books” for the purposes of that Act) there shall be substituted the following section:—

#### “9 Interpretation of “bank”, “banker”, and “bankers' books”.

- (1) In this Act the expressions “bank” and “banker” mean—
- (a) a recognised bank, licensed institution or municipal bank, within the meaning of the Banking Act 1979;
  - (b) a trustee savings bank within the meaning of section 3 of the Trustee Savings Banks Act 1969;
  - (c) the National Savings Bank;
  - (d) the Post Office, in the exercise of its power to provide banking services.
- (2) Expressions in this Act relating to “bankers' books” include ledgers, day books, cash books, account books and other records used in the ordinary business of the bank, whether those records are in written form or are kept on microfilm, magnetic tape or any other form of mechanical or electronic data retrieval mechanism.”

### Modifications etc. (not altering text)

C4 The text of ss. 38, 51(2), Sch. 6 Pt. I paras. 1–3, 9(a)(b) and 10(a)(b) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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*The Agricultural Credits Act 1928 (c. 43)*

- 2 In subsection (7) of section 5 of the Agricultural Credits Act 1928 (agricultural charges on farming stock and assets) for the definition of “Bank” there shall be substituted the following definition:—

““Bank” means the Bank of England, a recognised bank or licensed institution within the meaning of the Banking Act 1979, a trustee savings bank within the meaning of section 3 of the Trustee Savings Banks Act 1969 or the Post Office, in the exercise of its powers to provide banking services”.

**Modifications etc. (not altering text)**

- C5** The text of ss. 38, 51(2), Sch. 6 Pt. I paras. 1–3, 9(a)(b) and 10(a)(b) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

*The Agricultural Credits (Scotland) Act 1929 (c. 13)*

- 3 In subsection (2) of section 9 of the Agricultural Credits (Scotland) Act 1929 (interpretation), for the definition of “Bank” there shall be substituted the following definition:—

““Bank” means the Bank of England, a recognised bank or licensed institution within the meaning of the Banking Act 1979, a trustee savings bank within the meaning of section 3 of the Trustee Savings Banks Act 1969 or the Post Office, in the exercise of its powers to provide banking services”.

**Modifications etc. (not altering text)**

- C6** The text of ss. 38, 51(2), Sch. 6 Pt. I paras. 1–3, 9(a)(b) and 10(a)(b) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 4, 5. . . . . **F5**

**Textual Amendments**

- F5** Sch. 6 Pt. I paras. 4, 5 repealed by [Financial Services Act 1986 \(c. 60, SIF 69\)](#) s. 212(3), Sch. 17

- 6, 7. . . . . **F6**

**Textual Amendments**

- F6** Sch. 6 Pt. I paras. 6, 7 repealed by [Building Societies Act 1986 \(c. 53, SIF 16\)](#), s. 120, [Sch. 19 Pt. 1](#)

- 8 . . . . . **F7**

**Textual Amendments**

- F7** Sch. 6. Pt. I para. 8 repealed by [S.I. 1985/1205](#), art. 83(3), [Sch. 6](#)

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*The Solicitors Act 1974 (c. 47)*

- 9 In subsection (1) of section 87 of the Solicitors Act 1974 (interpretation of expressions used in that Act), in the definition of “bank”—
- (a) in paragraph (a) after the word “England” there shall be inserted the words “the Post Office, in the exercise of its powers to provide banking services, or a recognised bank within the meaning of the Banking Act 1979”; and
  - (b) in paragraph (b) for the words “a company as to which the Secretary of State is satisfied” there shall be substituted the words “ any other company as to which, immediately before the repeal of the Protection of Depositors Act 1963, the Secretary of State was satisfied ”;
- and the expression “bank” in any instrument made under the said Act of 1974 which is in force immediately before the appointed day shall be construed accordingly.

**Modifications etc. (not altering text)**

- C7** The text of ss. 38, 51(2), Sch. 6 Pt. I paras 1-3, 9(a)(b) and 10(a)(b) is in the form in which it was originally enacted; it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made made prior to 1.2.1991.

*The Solicitors (Scotland) Act 1976 (c. 6)*

PROSPECTIVE

- 10 In subsection (1) of section 5 of the Solicitors (Scotland) Act 1976 (extension of power of Council to make rules regarding certain accounts)—
- (a) after the words “National Savings Bank” there shall be inserted the words “ the Post Office, in the exercise of its powers to provide banking services, a recognised bank within the meaning of the Banking Act 1979 ”; and
  - (b) for the words “company as to which the Secretary of State is satisfied” there shall be substituted the words “ other company as to which, immediately before the repeal of the Protection of Depositors Act 1963, the Secretary of State was satisfied ”;
- and the expression “bank” in any instrument made under the said Act of 1976 or under the <sup>M4</sup>Solicitors (Scotland) Act 1949 which is in force immediately before the appointed day shall be construed accordingly.

**Modifications etc. (not altering text)**

- C8** The text of ss. 58, 51(2), Sch. 6 Pt. I paras 1-3, 9(a)(b) and 10(a)(b) is in the form in which it was originally enacted; it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

- M4** 1949 c. 63(76:2)

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**Textual Amendments**

**F8** Sch. 6. Pt. I para. 11 repealed by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), s. 3, [Sch. 1 Pt. 1](#)

12 ..... **F9**

**Textual Amendments**

**F9** Sch. 6. Pt. I para. 12 repealed by [S.I. 1981/156 \(N.I. 3\)](#), [Sch. 13 Pt. 2](#)

**PART II**

SAVINGS

*The Bankers' Books Evidence Act 1879 (c. 11)*

13 Nothing in paragraph 1 above shall affect the operation of the Bankers' Books Evidence Act 1879 in relation to any entry in any banker's book made, or relating to a transaction carried out,—

- (a) before the day appointed for the purposes of that paragraph; or
- (b) at a time when the bank or banker in question was permitted to accept deposits by virtue of subsection (4) of section 2 of this Act.

*The Agricultural Credits Act 1928 (c. 43)*

14 Nothing in paragraph 2 above shall affect the validity of, or the rights and obligations of the parties to, an agricultural charge within the meaning of the Agricultural Credits Act 1928 made before the day appointed for the purposes of that paragraph.

*The Agricultural Credits (Scotland) Act 1929 (c. 13)*

15 Nothing in paragraph 3 above shall affect the validity of, or the rights and obligations of the parties to, an agricultural charge within the meaning of the Agricultural Credits (Scotland) Act 1929 made before the day appointed for the purposes of that paragraph.

16, 17. .... **F10**

**Textual Amendments**

**F10** Sch. 6. Pt. II paras. 16, 17 repealed by [Building Societies Act 1986 \(c. 53, SIF 16\)](#), s. 120, [Sch. 19 Pt. 1](#)

18 ..... **F11**

**Textual Amendments**

**F11** Sch. 6. Pt. II para. 18 repealed by [S.I. 1985/1205, art 83\(3\)](#), [Sch. 6](#)

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- 19 The savings contained in this Part of this Schedule are without prejudice to section 16 of the <sup>M5</sup>Interpretation Act 1978 (general savings).

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**Marginal Citations**

**M5** 1978 c. 30

**F12F12**SCHEDULE 7

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**Textual Amendments**

**F12** Sch. 7 repealed by [Banking Act 1987 \(c. 22, SIF 10\)](#), s. 108(2), [Sch. 7 Pt. 1](#)

**F12**

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