



# Banking Act 1979

## 1979 CHAPTER 37

### PART I

#### CONTROL OF DEPOSIT-TAKING

##### *Revocation of recognition or licence*

#### **6 Grounds for revocation of recognition or licence**

- (1) The powers of the Bank under section 7 below to revoke recognition or a licence shall become exercisable with respect to an institution if it appears to the Bank that—
- (a) any of the information required to be furnished by the institution in connection with its application was false or misleading in a material particular; or
  - (b) the institution has not carried on any deposit-taking business within the period of twelve months beginning on the date on which it was granted recognition or, as the case may be, on which the licence took effect, or has ceased to carry on any such business for a period of more than six months; or
  - (c) any of the criteria in Part I or Part II of Schedule 2 to this Act which is applicable to the institution is not being or has not been fulfilled with respect to it; or
  - (d) in the case of an institution whose principal place of business is in a country or territory outside the United Kingdom, the authorities which exercise in that country or territory functions corresponding to those of the Bank under this Act have withdrawn from the institution the authority which in that country or territory corresponds to the authority conferred in the United Kingdom by recognition or a licence; or
  - (e) the institution is a body corporate and any of the events referred to in subsection (2) below has occurred with respect to it; or
  - (f) the institution is a partnership and any of the events referred to in subsection (3) below has occurred with respect to it; or
  - (g) the institution is an unincorporated institution other than a partnership and is formed under the law of another member State and an event has occurred with

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respect to it which, in that member State, appears to the Bank to correspond, as near as may be, with any of the events specified in paragraphs (a) to (d) of subsection (2) or paragraphs (a) to (f) of subsection (3) below; or

- (h) the institution has failed to comply with any obligation imposed by this Act; or
- (i) the institution has in any other way so conducted its affairs as to threaten the interests of its depositors.

(2) The events referred to in subsection (1)(e) above are—

- (a) the making of a winding-up order;
- (b) the passing of a resolution for voluntary winding up;
- (c) the appointment of a receiver or manager of the body's undertaking; and
- (d) the taking of possession, by or on behalf of the holders of any debenture secured by a floating charge, of any property of the body comprised in or subject to the charge;

and also, in the case of a body corporate formed under the law of a country or territory outside the United Kingdom, any event which appears to the Bank to correspond under that law with any of the events specified above.

(3) The events referred to in subsection (1)(f) above are—

- (a) the dissolution of the partnership ;
- (b) the making of a winding-up order against the firm under Part IX of the Companies Act 1948 or the Companies Act (Northern Ireland) 1960 (unregistered companies);
- (c) if one of the partners is a body corporate, the occurrence with respect to that partner of one of the events specified in subsection (2) above;
- (d) in England and Wales, the making of a receiving order against the firm or against one of the partners or one of the partners executing an instrument to which the Deeds of Arrangement Act 1914 applies ;
- (e) in Scotland, the making of an award of sequestration on the estate of the partnership or one of the partners, or the partnership or one of the partners executing a trust deed for creditors or entering into a composition contract; and
- (f) in Northern Ireland, the making of an order of adjudication of bankruptcy against one of the partners or one of the partners making a composition or arrangement with his creditors;

and also, in the case of a partnership whose principal place of business is in a country or territory outside the United Kingdom, any event which appears to the Bank to correspond in that country or territory with any of the events specified above.

(4) It shall be a ground for revoking a full licence held by an institution that the Bank proposes to grant recognition to the institution with effect from the time of the revocation of the licence.

(5) It shall be a ground for revoking a conditional licence held by an institution that the Bank proposes to grant a full licence to the institution with effect from the time of the revocation of the conditional licence.

## 7 **Revocation: powers and procedure**

(1) Where the powers of the Bank under this section have become exercisable with respect to an institution, the Bank may—

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- (a) revoke the recognition or licence of the institution and take such action as it considers appropriate under section 8 below ; or
  - (b) revoke the recognition or licence of the institution and grant it a conditional licence or, if the institution is already the holder of such a licence, grant it another conditional licence subject to different conditions.
- (2) Where the powers of the Bank under this section have become exercisable with respect to a recognised bank but it appears to the Bank that the circumstances are not such as to justify proceedings under subsection (1) above, the Bank may revoke the institution's recognition and grant it a full licence.
- (3) Subject to subsection (4) below, where the Bank proposes to act under subsection (1) or subsection (2) above.—
- (a) the Bank shall give the institution concerned notice in writing of its intention specifying the reasons why it proposes to act; and
  - (b) the provisions of Part I of Schedule 4 to this Act shall apply.
- (4) In any case where—
- (a) the powers of the Bank under this section have become exercisable with respect to an institution, and
  - (b) the Bank considers that urgent action is necessary,
- the Bank may, without prior notice under subsection (3) above, by notice in writing given to the institution concerned exercise its powers under paragraph (b) of subsection (1) above; and Where the Bank exercises those powers by virtue of this subsection, the provisions of Part II of Schedule 4 to this Act shall apply instead of the provisions of Part I of that Schedule.
- (5) In Schedule 4 to this Act " the principal section " means this section and—
- (a) in Part I of that Schedule a "notice of intention to act" means a notice given under subsection (3)(a) above; and
  - (b) in Part II of that Schedule an " immediate revocation notice" means a notice given under subsection (4) above.
- (6) The power of the Bank to revoke a licence by virtue of subsection (4) or subsection (5) of section 6 above shall be exercisable by notice in writing given to the institution concerned.

## **8 Power to give directions in connection with termination of deposit-taking authority**

- (1) Subject to sections 9 and 11(5) below, the Bank may give directions under this section to an institution—
- (a) at the same time as the Bank gives the institution notice under subsection (3) (a) of section 7 above of its intention to take action under subsection (1)(a) of that section; or
  - (b) at any time after such a notice has been given to the institution (whether before or after its recognition or licence is revoked); or
  - (c) at any time after the institution has surrendered its recognition or licence.
- (2) Directions under this section shall be such as appear to the Bank to be desirable in the interests of depositors, whether for the purpose of safeguarding the assets of the institution or otherwise, and a direction under this section may do all or any of the following, namely.—

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- (a) prohibit the institution from dealing with or disposing of its assets in any manner specified in the direction;
  - (b) prohibit it from entering into any transaction or class of transaction so specified;
  - (c) prohibit it from soliciting deposits either generally or from persons who are not already depositors; and
  - (d) require it to take certain steps or pursue a particular course of action.
- (3) A direction under this section shall be in writing and shall specify the reasons why the Bank considers it should be given.
- (4) The power of the Bank to give a direction under this section includes power to vary such a direction by a further direction; and a direction under this section may be revoked by a notice in writing (which may be contained in a later direction) given to the institution concerned by the Bank.
- (5) Any person who fails to comply with a direction for the time being in force under this section shall be liable—
- (a) on summary conviction to a fine not exceeding the statutory maximum; and
  - (b) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or both.

## **9 Duration of directions and direction-making power**

- (1) A direction under section 8 above shall cease to have effect at the expiry of the period of twenty-eight days beginning on the day on which it was given unless, before the expiry of that period, the Bank gives notice in writing to the institution concerned confirming the direction.
- (2) In deciding whether to give a notice under subsection (1) above confirming a direction, the Bank shall take into account any written representations made by or on behalf of the institution concerned within the period of fourteen days beginning with the date on which the direction was given.
- (3) In any case where—
- (a) the Bank has given an institution notice under subsection (3)(a) of section 7 above of its intention to take action under subsection (1)(a) of that section, and
  - (b) subsequently the Bank gives notice to the institution under paragraph 2 of Schedule 4 to this Act of a decision to take no further action or to take some other course of action,
- any direction under section 8 above previously given to the institution shall cease to have effect on the giving of the notice referred to in paragraph (b) above and no further direction may be given to the institution under that section in reliance on the notice mentioned in paragraph (a) above having been given.
- (4) No direction may be given to an institution under section 8 above after it has ceased to have any liability in respect of deposits for which it had a liability at a time when it was recognised or licensed; and any such direction which is in force with respect to an institution shall cease to have effect when the institution ceases to have any such liability.

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## 10 Conditional licences

- (1) A conditional licence is a licence which, subject to section 11(3) below, is granted to an institution by the Bank in the exercise of its powers under section 7(1)(b) above and gives the institution authority to carry on a deposit-taking business conditionally upon its complying with conditions imposed by the Bank and set out in the licence.
- (2) The conditions of a conditional licence granted to an institution—
  - (a) shall be such as the Bank considers necessary in order to secure the protection of the depositors of that institution ; and
  - (b) may require the institution to take certain steps or to refrain from adopting or pursuing a particular course of action or to restrict the scope of its business in a particular way; and
  - (c) may be varied from time to time by agreement between the Bank and the institution.
- (3) Without prejudice to the generality of subsection (2)(b) above, the conditions of a conditional licence may—
  - (a) impose limitations on the acceptance of deposits, the granting of credit or the making of investments;
  - (b) prohibit the soliciting of deposits, either generally or from persons who are not already depositors ; and
  - (c) require the removal of any director, controller or manager.
- (4) In the case of an institution holding a conditional licence, a failure to comply with any of the conditions of the licence shall be treated for the purposes of this Act as a failure by the institution to comply with such an obligation as is referred to in section 6(1)(h) above.
- (5) A conditional licence may be surrendered by notice in writing given by the institution concerned to the Bank.
- (6) Unless previously revoked or surrendered, a conditional licence shall expire at the end of the period of one year beginning on the date on which it was granted or on such earlier date as may be specified in the licence.