Banking Act 1979

1979 CHAPTER 37

PART III

ADVERTISEMENTS AND BANKING NAMES

Banking names and descriptions

36 Restriction on use of certain names and descriptions

(1) Subject to the provisions of this section and section 37 below, no person carrying on a business of any description in the United Kingdom, other than—

(a) the Bank,

(b) the central bank of a member State other than the United Kingdom.

(c) a recognised bank,

(d) a trustee savings bank,

(e) the Central Trustee Savings Bank Limited, and

(f) the Post Office, in the exercise of its powers to provide banking services,

may use any name or in any other way so describe himself or hold himself out as to indicate, or reasonably be understood to indicate, that he is a bank or banker or is carrying on a banking business.

(2) Nothing in this Part of this Act or in the preceding Parts of this Act affects the determination of any question whether a licensed institution or other person is a bank or banker for purposes other than those of this Act, and accordingly nothing in subsection (1) above shall prohibit a person who is not a recognised bank from using the expression " bank " or " banker " or a similar expression with reference to himself in any case where—

(a) he wishes to comply with or take advantage of any relevant provision of law or custom ; and

(b) it is necessary for him to use that expression in order to be able to assert that he is complying with or entitled to take advantage of that provision.

Status: *This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

(3) In subsection (2) above " relevant provision of law or custom " means any enactment, any instrument made under an enactment, any international agreement, any rule of law or any commercial usage or practice which confers any benefit on, or otherwise has effect only in relation to, a person by virtue of his being a bank or banker.

(4) Without prejudice to any provision made by virtue of section 34 above, nothing in subsection (1) above shall prohibit a licensed institution which provides at least two of the services specified in paragraph 2(2) of Schedule 2 to this Act from using the expression " banking services " in relation to any of the services provided by it except—

(a) where the use is in such immediate conjunction with the name of the institution that the expression might reasonably be thought to form part of its name ; or

(b) where the expression appears on any notice or sign or in other writing which is for the time being so displayed as to be visible to persons frequenting any place or building to which the public has access.

(5) Subsection (1) above does not prohibit the use by—

(a) a savings bank specified in subsection (6) below, or

(b) a municipal bank, or

(c) a body of persons certified as a school bank by either a trustee savings bank or the National Savings Bank, or a recognised bank,

of a name or description if the name contains an indication, or when the description is used it is accompanied by a statement, that the bank or body concerned is a savings bank, a municipal bank or, as the case may be, a school bank.

(6) The savings banks referred to in subsection (5)(a) above are—

(a) the National Savings Bank ;

(b) any penny savings bank ;

(c) any savings bank established before 28th July 1863 under an Act passed in the fifty-ninth year of King George the Third intituled an Act for the Protection of Banks for Savings in Scotland, which has not since become a trustee savings bank ; and

(d) the British Railways Savings Bank established under section 32 of the British Railways Act 1966.

(7) Subsection (1) above does not prohibit the use by—

(a) licensed institution which is a wholly owned subsidiary (within the meaning of section 150(4) of the Companies Act 1948) of a recognised bank, or

(b) a company which has a wholly owned subsidiary (within the meaning of that section) which is a recognised bank,

of a name which includes the name of that recognised bank for the purpose of indicating the connection between the two companies.

(8) Subsection (1) above does not prohibit the use by a licensed institution which has its principal place of business in a country or territory outside the United Kingdom of the name under which the institution carries on business in that country or territory if the name is used in immediate conjunction with the description "licensed deposit-taker" and, where the name appears in writing, if that description is at least as prominent as the name.

(9) Subsection (1) above does not prohibit the use by a person who carries on business at a representative office of an overseas institution of a name under which the overseas

institution carries on a deposit-taking business in a country or territory outside the United Kingdom if the name is used in immediate conjunction with the description " representative office " and, where the name appears in writing, if that description is at least as prominent as the name; and in this subsection " overseas institution" and " representative office " have the same meaning as in section 40 below.

(10) Where on an application for—

(a) registration of a name under the Registration of Business Names Act 1916, or

(b) the first registration of a company, or the registration of a company by a new name, under the Companies Act 1948 or the Companies Act (Northern Ireland) 1960,

it appears to the registrar concerned that the use of the name by the person seeking to register it would contravene subsection (1) above, the registration shall not be made.

(11) A person who contravenes subsection (1) above shall be liable on summary conviction to a fine not exceeding £1,000; and where the contravention involves a public display or exhibition of the offending name, description or other matter, there shall be a fresh contravention of the subsection on each day on which that person causes or permits the display or exhibition to continue.