



Banking Act 1987

1987 CHAPTER 22

PART I

REGULATION OF DEPOSIT-TAKING BUSINESS

Invitations to make deposits

32 Advertisement regulations

- (1) The Treasury may after consultation with the Bank and the Building Societies Commission make regulations for regulating the issue, form and content of deposit advertisements.
- (2) Regulations under this section may make different provision for different cases and, without prejudice to the generality of subsection (1) above, may in particular—
 - (a) prohibit the issue of advertisements of any description (whether by reference to their contents, to the persons by whom they are issued or otherwise);
 - (b) make provision with respect to matters which must be, as well as matters which may not be, included in advertisements;
 - (c) provide for exemptions from any prohibition or requirement imposed by the regulations, including exemptions by reference to a person's membership of a class whose membership is determined otherwise than by the Treasury.
- (3) Subject to subsection (4) below, any person who issues or causes to be issued in the United Kingdom an advertisement the issue of which is prohibited by regulations under this section or which does not comply with any requirements imposed by those regulations shall be guilty of an offence and liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both;
 - (b) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both.
- (4) A person whose business it is to publish or arrange for the publication of advertisements shall not be guilty of an offence under this section if he proves that

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he received the advertisement for publication in the ordinary course of his business, that the matters contained in the advertisement were not (wholly or in part) devised or selected by him or by any person under his direction or control and that he did not know and had no reason for believing that publication of the advertisement would constitute an offence.

- (5) In this section "a deposit advertisement" means any advertisement containing—
- (a) an invitation to make a deposit; or
 - (b) information which is intended or might reasonably be presumed to be intended to lead directly or indirectly to the making of a deposit;
- and for the purposes of this section an advertisement includes any means of bringing such an invitation or such information to the notice of the person or persons to whom it is addressed and references to the issue of an advertisement shall be construed accordingly.
- (6) For the purposes of this section—
- (a) an advertisement issued or caused to be issued by any person by way of display or exhibition in a public place shall be treated as issued or caused to be issued by him on every day on which he causes or permits it to be displayed or exhibited;
 - (b) an advertisement inviting deposits with a person specified in the advertisement shall be presumed, unless the contrary is proved, to have been issued to the order of that person.
- (7) For the purposes of this section an advertisement issued outside the United Kingdom shall be treated as issued in the United Kingdom if it is directed to persons in the United Kingdom or is made available to them otherwise than in a newspaper, journal, magazine or other periodical publication published and circulating principally outside the United Kingdom or in a sound or television broadcast transmitted principally for reception outside the United Kingdom.
- (8) Regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

33 Advertisement directions

- (1) If the Bank considers that any deposit advertisement issued or proposed to be issued by or on behalf of an authorised institution is misleading, the Bank may by notice in writing give the institution a direction under this section.
- (2) A direction under this section may contain all or any of the following prohibitions or requirements—
- (a) a prohibition on the issue of advertisements of a specified kind;
 - (b) a requirement that advertisements of a particular description shall be modified in a specified manner;
 - (c) a prohibition on the issue of any advertisements which are, wholly or substantially, repetitions of an advertisement which has been issued and which is identified in the direction;
 - (d) a requirement to take all practical steps to withdraw from display in any place any advertisements or any advertisements of a particular description specified in the direction.

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- (3) Not less than seven days before giving a direction under this section the Bank shall give the institution concerned notice in writing of its intention to give the direction stating the reasons for the proposed direction and giving particulars of the rights conferred by subsection (4) below.
- (4) An institution to which a notice is given under subsection (3) above may within the period of seven days beginning with the day on which the notice was given make written representations to the Bank; and the Bank shall take any such representation into account in deciding whether to give the direction.
- (5) A direction under this section may be varied by a further direction; and a direction may be revoked by the Bank by a notice in writing to the institution concerned.
- (6) Any person who issues or causes to be issued an advertisement the issue of which is prohibited by a direction under this section or which does not comply with any requirements imposed by such a direction shall be guilty of an offence and liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both;
 - (b) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both.
- (7) In this section "deposit advertisement" has the same meaning as in section 32 above and subsections (4) and (6) of that section shall apply also for the purposes of this section.

34 Unsolicited calls

- (1) The Treasury may after consultation with the Bank and the Building Societies Commission make regulations for regulating the making of unsolicited calls—
 - (a) on persons in the United Kingdom; or
 - (b) from the United Kingdom on persons elsewhere,with a view to procuring the making of deposits.
- (2) Regulations under this section may make different provision for different cases and, without prejudice to the generality of subsection (1) above, may in particular—
 - (a) prohibit the soliciting of deposits from, and the making of agreements with a view to the acceptance of deposits from, persons on whom unsolicited calls are made and prohibit the procuring of such persons to make deposits or to enter into such agreements;
 - (b) specify persons by whom or circumstances in which unsolicited calls may be made;
 - (c) require specified information to be disclosed to persons on whom unsolicited calls are made.
- (3) Any person who contravenes regulations made under this section shall be guilty of an offence and liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both;
 - (b) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both.
- (4) In this section "unsolicited call" means a personal visit or oral communication made without express invitation.

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- (5) Regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

35 Fraudulent inducement to make a deposit

- (1) Any person who—
- (a) makes a statement, promise or forecast which he knows to be misleading, false or deceptive, or dishonestly conceals any material facts; or
 - (b) recklessly makes (dishonestly or otherwise) a statement, promise or forecast which is misleading, false or deceptive,
- is guilty of an offence if he makes the statement, promise or forecast or conceals the facts for the purpose of inducing, or is reckless as to whether it may induce, another person (whether or not the person to whom the statement, promise or forecast is made or from whom the facts are concealed)—
- (i) to make, or refrain from making, a deposit with him or any other person; or
 - (ii) to enter, or refrain from entering, into an agreement for the purpose of making such a deposit.
- (2) This section does not apply unless—
- (a) the statement, promise or forecast is made in or from, or the facts are concealed in or from, the United Kingdom or arrangements are made in or from the United Kingdom for the statement, promise or forecast to be made or the facts to be concealed;
 - (b) the person on whom the inducement is intended to or may have effect is in the United Kingdom; or
 - (c) the deposit is or would be made, or the agreement is or would be entered into, in the United Kingdom.
- (3) A person guilty of an offence under this section shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding seven years or to a fine or to both;
 - (b) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both.
- (4) For the purposes of this section the definition of deposit in section 5 above shall be treated as including any sum that would be otherwise excluded by subsection (3) of that section.