



Banking Act 1987

1987 CHAPTER 22

PART III

BANKING NAMES AND DESCRIPTIONS

67 Restriction on use of banking names

- (1) Subject to section 68 below, no person carrying on any business in the United Kingdom shall use any name which indicates or may reasonably be understood to indicate (whether in English or any other language) that he is a bank or banker or is carrying on a banking business unless he is an authorised institution to which this section applies.
- (2) This section applies to an authorised institution which—
 - (a) is a company incorporated in the United Kingdom which has—
 - (i) an issued share capital in respect of which the amount paid up is not less than £5 million (or an amount of equivalent value denominated wholly or partly otherwise than in sterling); or
 - (ii) undistributable reserves falling within paragraph (a), (b) or (d) of section 264 (3) of the Companies Act 1985 or Article 272(3)(a), (b) or (d) of the Companies (Northern Ireland) Order 1986 of not less than that sum (or such an equivalent amount); or
 - (iii) such undistributable reserves of an amount which together with the amount paid up in respect of its issued share capital equals not less than that sum (or such an equivalent amount); or
 - (b) is a partnership formed under the law of any part of the United Kingdom in respect of which one or more designated fixed capital accounts are maintained to which there has been credited not less than £5 million (or such an equivalent amount).
- (3) For the purposes of subsection (2)(a) above "share capital" does not include share capital which under the terms on which it is issued is to be, or may at the option of the shareholder be, redeemed by the company.

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- (4) For the purposes of subsection (2)(b) above "designated fixed capital account", in relation to a partnership, means an account—
- (a) which is prepared and designated as such under the terms of the partnership agreement;
 - (b) which shows capital contributed by the partners; and
 - (c) from which under the terms of that agreement an amount representing capital may only be withdrawn by a partner if—
 - (i) he ceases to be a partner and an equal amount is transferred to a designated fixed capital account by his former partners or any person replacing him as their partner; or
 - (ii) the partnership is otherwise dissolved or wound up.
- (5) An authorised institution to which subsection (2) above applies whose issued share capital, undistributable reserves or designated fixed capital account is denominated wholly or partly otherwise than in sterling shall not be regarded as ceasing to be such an institution by reason only of a fluctuation in the rate of exchange of sterling unless and until it has ceased to satisfy any of the conditions in that subsection for a continuous period of three months.
- (6) The Treasury may from time to time after consultation with the Bank by order amend subsection (2)(a) and (b) above so as to substitute for the sum for the time being specified in that subsection such other sum as may be specified in the order; but an order under this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.

68 Exemptions from s.67

- (1) Section 67 above does not prohibit the use of a name by a relevant savings bank, a municipal bank or a school bank if the name contains an indication that the bank or body is a savings bank, municipal bank or, as the case may be, a school bank.
- (2) In subsection (1) above—
- "relevant savings bank" means—
 - (i) the National Savings Bank; and
 - (ii) any penny savings bank;
 - "school bank" means a body of persons certified as a school bank by the National Savings Bank or an authorised institution.
- (3) Section 67 above does not prohibit the use by an authorised institution which is a company incorporated under the law of a country or territory outside the United Kingdom or is formed under the law of a member State other than the United Kingdom of a name under which it carries on business in that country or territory or State (or an approximate translation in English of that name).
- (4) Section 67 above does not prohibit the use by—
- (a) an authorised institution which is a wholly-owned subsidiary of an authorised institution to which that section or subsection (3) above applies; or
 - (b) a company which has a wholly-owned subsidiary which is an authorised institution to which that section or subsection applies,
- of a name which includes the name of the authorised institution to which that section or subsection applies for the purpose of indicating the connection between the two companies.

- (5) Section 67 above does not prohibit the use by an overseas institution (within the meaning of Part IV of this Act) which has its principal place of business in a country or territory outside the United Kingdom and a representative office in the United Kingdom of the name under which it carries on business in that country or territory (or an approximate translation in English of that name) if—
- (a) the name is used in immediate conjunction with the description "representative office"; and
 - (b) where the name appears in writing, that description is at least as prominent as the name;
- and in this subsection "representative office" has the same meaning as in Part IV of this Act.
- (6) Section 67 above does not apply to—
- (a) the Bank;
 - (b) the central bank of a member State other than the United Kingdom;
 - (c) the European Investment Bank;
 - (d) the International Bank for Reconstruction and Development;
 - (e) the African Development Bank;
 - (f) the Asian Development Bank;
 - (g) the Caribbean Development Bank;
 - (h) the Inter-American Development Bank.
- (7) The Treasury may, after consultation with the Bank, by order provide—
- (a) that the prohibition in section 67 above shall not apply to any person or class of persons; or
 - (b) that that prohibition shall apply to a person mentioned in any of paragraphs (c) to (h) of subsection (6) above or a person previously exempted from it by virtue of an order under paragraph (a) above.
- (8) An order under paragraph (a) of subsection (7) above shall be subject to annulment in pursuance of a resolution of either House of Parliament; and no order shall be made under paragraph (b) of that subsection unless a draft of it has been laid before and approved by a resolution of each House of Parliament.
- (9) Nothing in section 67 above shall prevent an institution which ceases to be an authorised institution to which that section or subsection (4) above applies or ceases to be exempted from the prohibition in that section by virtue of subsection (1) above from continuing to use any name it was previously permitted to use by virtue of that provision during the period of six months beginning with the day when it ceases to be such an institution.

69 Restriction on use of banking descriptions

- (1) No person carrying on any business in the United Kingdom shall so describe himself or hold himself out as to indicate or reasonably be understood to indicate (whether in English or in any other language) that he is a bank or banker or is carrying on a banking business unless he is an authorised institution or is exempted from the requirements of this subsection under the following provisions of this section.
- (2) Subsection (1) above shall not be taken to authorise the use by an authorised institution to which the prohibition in section 67 above applies of any description of itself as

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a bank or banker or as carrying on a banking business which is in such immediate conjunction with the name of the institution that the description might reasonably be thought to be part of it.

- (3) Subsection (1) above does not prohibit the use by a building society authorised under the Building Societies Act 1986 of any description of itself as providing banking services unless the description is in such immediate conjunction with its name that it might reasonably be thought to be part of it.
- (4) Subsection (1) above does not prohibit a person from using the expression "bank" or "banker" (or a similar expression) where it is necessary for him to do so in order to be able to assert that he is complying with, or entitled to take advantage of, any enactment, any instrument made under an enactment, any international agreement, any rule of law or any commercial usage or practice which applies to a person by virtue of his being a bank or banker.
- (5) Subsection (1) above does not prohibit the use of a description by a relevant savings bank, a municipal bank or a school bank if the description is accompanied by a statement that the bank or body is a savings bank, a municipal bank or, as the case may be, a school bank; and for the purposes of this subsection "relevant savings bank" and "school bank" have the same meanings as in section 68 above.
- (6) Subsection (1) above does not apply to—
 - (a) the Bank;
 - (b) the central bank of a member State other than the United Kingdom;
 - (c) the European Investment Bank;
 - (d) the International Bank for Reconstruction and Development;
 - (e) the International Finance Corporation;
 - (f) the African Development Bank;
 - (g) the Asian Development Bank;
 - (h) the Caribbean Development Bank;
 - (i) the Inter-American Development Bank.
- (7) The Treasury may, after consultation with the Bank, by order provide—
 - (a) that the prohibition in subsection (1) above shall not apply to any person or class of persons; or
 - (b) that that prohibition shall apply to a person mentioned in any of paragraphs (c) to (i) of subsection (6) above or a person previously exempted from it by an order under paragraph (a) above.
- (8) An order under paragraph (a) of subsection (7) above shall be subject to annulment in pursuance of a resolution of either House of Parliament; and no order shall be made under paragraph (b) of that subsection unless a draft of it has been laid before and approved by a resolution of each House of Parliament.

70 Power to object to institution's names

- (1) Where an institution applies for authorisation under this Act it shall give notice to the Bank of any name it is using or proposes to use for the purposes of or in connection with any business carried on by it and the Bank may give the institution notice in writing—
 - (a) that it objects to the notified name; or

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- (b) in the case of an institution which is or will be obliged to disclose any name in connection with any business carried on by it by virtue of section 4 of the Business Names Act 1985 or Article 6 of the Business Names (Northern Ireland) Order 1986, that it objects to that name.
- (2) Where an authorised institution proposes to change any name it uses for the purposes of or in connection with any business carried on by it or, in the case of such an institution as is mentioned in subsection (1)(b) above, any such name as is there mentioned, it shall give notice to the Bank of the proposed name and the Bank may within the period of two months beginning with the day on which it receives the notification give notice to the institution in writing that it objects to the proposed name.
- (3) The Bank shall not give notice objecting to a name under subsection (1) or (2) above unless it considers that the name is misleading to the public or otherwise undesirable and, in the case of the use of a name by an authorised institution to which section 67 above applies—
 - (a) the whole of the name shall be taken into account in considering whether it is misleading or undesirable; but
 - (b) no objection may be made to so much of the name as it is entitled to use by virtue of that section.
- (4) Where as a result of a material change in circumstances since the time when notice was given to the Bank under subsection (1) or (2) above or as a result of further information becoming available to the Bank since that time, it appears to the Bank that a name to which it might have objected under that subsection gives so misleading an indication of the nature of the institution's activities as to be likely to cause harm to the public, the Bank may give notice in writing to the institution objecting to the name.
- (5) Any notice to be given by an institution under this section shall be given in such manner and form as the Bank may specify and shall be accompanied by such information or documents as the Bank may reasonably require.

71 Effect of notices under s.70 and appeals

- (1) Where the Bank has given notice to an authorised institution under section 70 above the institution shall not use the name to which the Bank has objected for the purposes of or in connection with any business carried on in the United Kingdom after the objection has taken effect; and for the purposes of this subsection the disclosure of a name in connection with such a business by virtue of section 4 of the Business Names Act 1985 or Article 6 of the Business Names (Northern Ireland) Order 1986 shall be treated (if it would not otherwise be) as use for the purposes of that business.
- (2) For the purposes of this section an objection under section 70(1) or (2) above takes effect when the institution receives the notice of objection.
- (3) An institution to which a notice of objection is given under section 70(1) or (2) above may within the period of three weeks beginning with the day on which it receives the notice apply to the court to set aside the objection and on such an application the court may set it aside or confirm it (but without prejudice to its operation before that time).
- (4) For the purposes of this section an objection under section 70(4) above takes effect—
 - (a) in a case where no application is made under subsection (5) below, at the expiry of the period of two months beginning with the day on which the

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institution receives the notice of objection or such longer period as the notice may specify; or

- (b) where an application is made under subsection (5) below and the court confirms the objection, after such period as the court may specify.
- (5) An institution to which a notice of objection is given under section 70(4) above may within the period of three weeks beginning with the day on which it receives the notice apply to the court to set aside the objection.
- (6) In this section "the court" means the High Court, the Court of Session or the High Court in Northern Ireland according to whether—
- (a) if the institution concerned is a company registered in the United Kingdom, it is registered in England and Wales, Scotland or Northern Ireland; and
 - (b) in the case of any other institution, its principal or prospective principal place of business in the United Kingdom is situated in England and Wales, Scotland or Northern Ireland.

72 Registration of substitute corporate name by oversea company

- (1) Where the Bank gives notice under section 70 above objecting to the corporate name of a company incorporated outside the United Kingdom, subsection (4) of section 694 of the Companies Act 1985 or, in Northern Ireland, paragraph (4) of Article 644 of the Companies (Northern Ireland) Order 1986 shall apply, subject to subsection (2) below, as it applies where a notice is served on a company under subsection (1) or (2) of that section or, as the case may be, paragraph (1) or (2) of that Article.
- (2) No statement or further statement may be delivered under subsection (4) of section 694 or paragraph (4) of Article 644 by virtue of subsection (1) above unless the Bank has signified that it does not object to the name specified in the statement.
- (3) Section 70(2) above shall not apply to a proposed change of a name which has been registered under section 694(4) of the Companies Act 1985 or Article 644(4) of the Companies (Northern Ireland) Order 1986 by virtue of subsection (1) above.

73 Offences under Part III

A person who contravenes any provision in this Part of this Act shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding the fifth level on the standard scale or to both and, where the contravention involves a public display or exhibition of any name or description, there shall be a fresh contravention on each day on which the person causes or permits the display or exhibition to continue.