



# Banking Act 1979

## 1979 CHAPTER 37

### PART III

#### ADVERTISEMENTS AND BANKING NAMES

##### *Advertisements for deposits*

#### **34 Control of advertisements for deposits**

- (1) After consultation with the Bank, the Treasury may by regulations made by statutory instrument regulate the issue, form and content of advertisements inviting the making of deposits.
- (2) Regulations under this section may make different provision with respect to different descriptions of advertisement and different descriptions of advertisers and, in particular,—
  - (a) may prohibit the issue of advertisements of, or by persons of, particular descriptions ; and
  - (b) may make provision for the exclusion from all or any of the provisions of the regulations of advertisements of particular descriptions or advertisements issued by persons of particular descriptions ; and
  - (c) may make provision with respect to matters which must be, as well as to matters which may not be, included in advertisements.
- (3) Any person who issues an advertisement in contravention of regulations 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 to both.
- (4) In this section " advertisement" includes every form of advertising, whether in a publication, by the display of notices, signs, labels, showcards or goods, by distribution of samples, by means of circulars, catalogues, price lists or other documents, by an exhibition of photographic or cinematographic films, or of pictures

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or models, by way of sound broadcasting or television, or in any other manner; and references to the issue of an advertisement shall be construed accordingly.

- (5) For the purposes of this section—
- (a) an advertisement issued by any person by way of display or exhibition in a public place shall be treated as issued by him on every day on which he causes or permits it to be displayed or exhibited;
  - (b) an advertisement which contains information which is intended or might reasonably be presumed to be intended to lead directly or indirectly to the making of deposits shall be treated as an advertisement inviting deposits;
  - (c) an advertisement issued by any person on behalf of or to the order of another person shall be treated as an advertisement issued by that other person; and
  - (d) an advertisement inviting deposits with a person specified in the advertisement shall be presumed, unless the contrary is proved, to have been issued by that person.
- (6) A statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### **35 Specific prohibitions etc. directed at licensed institutions**

- (1) Subject to subsections (3) and (4) below, if the Bank considers that an advertisement for deposits issued or proposed to be issued by a licensed institution is misleading, the Bank may give the institution concerned a direction under this section.
- (2) A direction under this section shall be in writing and may contain all or any of the following, namely,—
- (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 ; and
  - (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.
- (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, specifying the reasons why it proposes to act
- (4) In any case where—
- (a) the Bank has given notice under subsection (3) above, and
  - (b) within the period of seven days beginning on the date on which the notice was given, written representations are made to the Bank by or on behalf of the institution concerned,
- the Bank shall take those representations into account in deciding whether or not to proceed to give the direction.
- (5) A direction under this section—
- (a) may be revoked or varied by a further direction under this section; and

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- (b) may be revoked by the Bank by notice in writing given to the institution concerned.
- (6) Subsections (4) and (5) of section 34 above shall apply in relation to this section as they apply in relation to that.
- (7) Any person who fails to comply with a direction 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 to both.