



# Banking Act 1987 (repealed)

## 1987 CHAPTER 22

### PART I

#### REGULATION OF DEPOSIT-TAKING BUSINESS

##### *Authorisations*

### **8 Applications for authorisation.**

- (1) Any institution may make an application for authorisation to the Bank.
- (2) Any such application—
  - (a) shall be made in such manner as the Bank may direct; and
  - (b) shall be accompanied by—
    - (i) a statement setting out the nature and scale of the deposit-taking business which the applicant intends to carry on, any plans of the applicant for the future development of that business and particulars of the applicant's arrangements for the management of that business; and
    - (ii) such other information or documents as the Bank may reasonably require for the purpose of determining the application.
- (3) At any time after receiving an application and before determining it the Bank may by written notice require the applicant or any person who is or is to be a director, controller or manager of the applicant to provide additional information or documents.
- (4) The directions and requirements given or imposed under subsections (2) and (3) above may differ as between different applications.
- (5) Any information or statement to be provided to the Bank under this section shall be in such form as the Bank may specify; and the Bank may by written notice require the applicant or any such person as is mentioned in subsection (3) above to provide a report by an accountant or other qualified person approved by the Bank on such aspects of that information as may be specified by the Bank.

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- (6) An application may be withdrawn by written notice to the Bank at any time before it is granted or refused.

## **9 Grant and refusal of authorisation.**

- (1) The Bank may, on an application duly made in accordance with section 8 above and after being provided with all such information, documents and reports as it may require under that section, grant or refuse the application.
- (2) The Bank shall not grant an application unless satisfied that the criteria specified in Schedule 3 to this Act are fulfilled with respect to the applicant.
- (3) In the case of an application by an applicant whose principal place of business is in a country or territory outside the United Kingdom the Bank may regard itself as satisfied that the criteria specified in paragraphs 1, 4 and 5 of that Schedule are fulfilled if—
- (a) the relevant supervisory authority in that country or territory informs the Bank that it is satisfied with respect to the prudent management and overall financial soundness of the applicant; and
  - (b) the Bank is satisfied as to the nature and scope of the supervision exercised by that authority.
- (4) In determining whether to grant or refuse an application the Bank may take into account any matters relating—
- (a) to any person who is or will be employed by or associated with the applicant for the purposes of the applicant's deposit-taking business; and
  - (b) if the applicant is a body corporate, to any other body corporate in the same group or to any director or controller of any such other body.
- (5) No authorisation shall be granted to a partnership or unincorporated association if the whole of the assets available to it are owned by a single individual.
- (6) An authorisation granted to a partnership shall be granted in the partnership name and, without prejudice to sections 11 and 12 below, shall not be affected by any change in the partners.

## **10 Notice of grant or refusal.**

- (1) Where the Bank grants an application for authorisation it shall give written notice of that fact to the applicant.
- (2) Where the Bank proposes to refuse an application for authorisation it shall give the applicant written notice of its intention to do so, stating the grounds on which it proposes to act and giving particulars of the applicant's rights under subsection (4) below.
- (3) Where the ground or a ground for the proposed refusal is that the Bank is not satisfied that the criterion in paragraph 1 of Schedule 3 to this Act is fulfilled in the case of any such person as is there mentioned, the Bank shall give that person a copy of the notice mentioned in subsection (2) above, together with a statement of his rights under subsection (4) below.
- (4) An applicant who is given a notice under subsection (2) above and a person who is given a copy of it under subsection (3) above may within such period (not being less than twenty-eight days) as is specified in the notice make written representations to the

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Bank; and where such representations are made the Bank shall take them into account before reaching a decision on the application.

- (5) Where the Bank refuses an application it shall give written notice of that fact to the applicant and to any such person as is mentioned in subsection (3) above, stating the reasons for the refusal and giving particulars of the rights conferred by section 27 below.
- (6) Any notice under subsection (5) above shall be given before the end of the period of six months beginning with the day on which the application was received by the Bank or, where the Bank has under section 8 above required additional information or documents in connection with the application, before the end of whichever of the following first expires—
  - (a) the period of six months beginning with the day on which the additional information or documents are provided;
  - (b) the period of twelve months beginning with the day on which the application was received.
- (7) The Bank may omit from the copy given to a person under subsection (3) above and from a notice given to him under subsection (5) above any matter which does not relate to him.

## **11 Revocation of authorisation.**

- (1) The Bank may revoke the authorisation of an institution if it appears to the Bank that—
  - (a) any of the criteria specified in Schedule 3 to this Act is not or has not been fulfilled, or may not be or may not have been fulfilled, in respect of the institution;
  - (b) the institution has failed to comply with any obligation imposed on it by or under this Act;
  - (c) a person has become a controller of the institution in contravention of section 21 below or has become or remains a controller after being given a notice of objection under section 22, 23 or 24 below;
  - (d) the Bank has been provided with false, misleading or inaccurate information by or on behalf of the institution or, in connection with an application for authorisation, by or on behalf of a person who is or is to be a director, controller or manager of the institution; or
  - (e) the interests of depositors or potential depositors of the institution are in any other way threatened, whether by the manner in which the institution is conducting or proposes to conduct its affairs or for any other reason.
- (2) The Bank may revoke the authorisation of an institution if it appears to the Bank that the institution—
  - (a) has not accepted a deposit in the United Kingdom in the course of carrying on a deposit-taking business (whether there or elsewhere) within the period of twelve months beginning with the day on which it was authorised; or
  - (b) having accepted a deposit or deposits as aforesaid, has subsequently not done so for any period of more than six months.
- (3) If in the case of an authorised institution whose principal place of business is in a country or territory outside the United Kingdom it appears to the Bank that the relevant supervisory authority in that country or territory has withdrawn from the institution an authorisation corresponding to that conferred by the Bank under this Part of this

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Act, the Bank may revoke the authorisation and shall do so if that country or territory is a member State.

- (4) In the case of an authorised institution which is an authorised person under the <sup>M1</sup>Financial Services Act 1986 or holds a consumer credit licence under the <sup>M2</sup>Consumer Credit Act 1974 the Bank may revoke the authorisation if it appears to the Bank that the institution has ceased to be an authorised person under the said Act of 1986 (otherwise than at the request or with the consent of the institution) or that the licence under the said Act of 1974 has been revoked.
- (5) The Treasury may after consultation with the Bank by order make provision corresponding to subsection (4) above in relation to any authorisation or licence granted under such other enactments as may appear to the Treasury to be appropriate; but any such order shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) If in the case of an authorised institution wherever incorporated it appears to the Bank that—
- (a) a winding-up order has been made against it in the United Kingdom; or
  - (b) a resolution for its voluntary winding up in the United Kingdom has been passed,
- the Bank shall revoke the authorisation; and the Bank may revoke the authorisation of any authorised institution incorporated outside the United Kingdom if it appears to the Bank that an event has occurred in respect of it outside the United Kingdom which corresponds as nearly as may be to either of those mentioned in paragraphs (a) and (b) above.
- (7) The Bank may revoke the authorisation of an authorised institution incorporated in the United Kingdom if it appears to the Bank that—
- (a) a composition or arrangement with creditors has been made in respect of the institution;
  - (b) a receiver or manager of the institution's undertaking has been appointed; or
  - (c) possession has been taken, by or on behalf of the holders of any debenture secured by a charge, of any property of the institution comprised in or subject to the charge;
- or, in the case of an authorised institution incorporated elsewhere, that an event has occurred in respect of it which corresponds as nearly as may be to any of those mentioned in paragraphs (a), (b) and (c) above.
- (8) The Bank may revoke the authorisation of an authorised institution if it appears to the Bank that an administration order has been made in relation to the institution under section 8 of the <sup>M3</sup>Insolvency Act 1986 [<sup>F1</sup>or under Article 21 of the Insolvency (Northern Ireland) Order 1989].
- (9) The Bank shall revoke the authorisation of an unincorporated institution if it appears to the Bank that a winding-up order has been made against it in the United Kingdom and may revoke the authorisation of such an institution if it appears to the Bank that—
- (a) the institution has been dissolved; or
  - (b) a bankruptcy order, an award of sequestration, an order of adjudication of bankruptcy or a composition or arrangement with creditors has been made or a trust deed for creditors granted in respect of that institution or any of its members; or

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- (c) any event corresponding as nearly as may be to any of those mentioned in paragraph (b) above or in subsection (6)(a) or (b) or (7)(b) or (c) above has occurred in respect of that institution or any of its members; or
- (d) the whole of the assets available to the institution have passed into the ownership of a single individual.

#### Textual Amendments

**F1** Words in s. 11(8) inserted (01.10.1991) by S.I. 1989/2405 (N.I. 19), art. 381(2), **Sch. 9 Pt. II**, para. 49; S.R. 1991/411, **art.2**

#### Marginal Citations

**M1** 1986 c. 60.  
**M2** 1974 c. 39.  
**M3** 1986 c. 45.

## 12 Restriction of authorisation.

- (1) Where it appears to the Bank—
  - (a) that there are grounds on which the Bank's power to revoke an institution's authorisation are exercisable; but
  - (b) that the circumstances are not such as to justify revocation, the Bank may restrict the authorisation instead of revoking it.
- (2) An authorisation may be restricted—
  - (a) by imposing such limit on its duration as the Bank thinks fit;
  - (b) by imposing such conditions as it thinks desirable for the protection of the institution's depositors or potential depositors; or
  - (c) by the imposition both of such a limit and of such conditions.
- (3) A limit on the duration of an authorisation shall not be such as to allow the authorisation to continue in force for more than three years from the date on which it is imposed; and such a limit may, in particular, be imposed in a case in which the Bank considers that an institution should be allowed time to repay its depositors in an orderly manner.
- (4) The conditions imposed under this section may in particular—
  - (a) 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;
  - (b) impose limitations on the acceptance of deposits, the granting of credit or the making of investments;
  - (c) prohibit the institution from soliciting deposits, either generally or from persons who are not already depositors;
  - (d) prohibit it from entering into any other transaction or class of transactions;
  - (e) require the removal of any director, controller or manager;
  - (f) specify requirements to be fulfilled otherwise than by action taken by the institution.
- (5) Any condition imposed under this section may be varied or withdrawn by the Bank; and any limit imposed under this section on the duration of an authorisation may be

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varied but not so as to allow the authorisation to continue in force for longer than the period mentioned in subsection (3) above from the date on which the limit was first imposed.

- (6) An institution which fails to comply with any requirement or contravenes any prohibition imposed on it by a condition under this section shall be guilty of an offence and liable—
- (a) on conviction on indictment, to a fine;
  - (b) on summary conviction, to a fine not exceeding the statutory maximum.
- (7) The fact that a condition imposed under this section has not been complied with (whether or not constituting an offence under subsection (6) above) shall be a ground for the revocation of the authorisation in question but shall not invalidate any transaction.
- (8) An institution whose authorisation is restricted by the imposition of a limit on its duration may apply under section 8 above for a new authorisation and, if that authorisation is granted, the restricted authorisation shall cease to have effect.

**Modifications etc. (not altering text)**

- C1 S. 12(4) applied (1.1.1993) by S.I. 1992/3218, reg. 10(4).  
S. 12(4) applied (1.1.1993) by S.I. 1992/3218, reg. 23(3).

VALID FROM 01/01/1993

**[<sup>F2</sup>12A Revocation or restriction on information from supervisory authority.**

- (1) This section applies where, in the case of an authorised institution which is a credit institution incorporated in or formed under the law of any part of the United Kingdom, the Bank is informed by a supervisory authority in another member State that the institution is failing to comply with an obligation imposed by or under any rule of law in force in that State for purposes connected with the implementation of the Second Council Directive.
- (2) The Bank shall as soon as practicable send a copy of the information received by it to every other authority which it knows is a connected UK authority.
- (3) The Bank shall also—
  - (a) consider whether to exercise its powers under section 11 or 12 above; and
  - (b) notify its decision, and any action which it has taken or intends to take, to the supervisory authority and to every other authority which it knows is a connected UK authority.]

**Textual Amendments**

- F2 S. 12A inserted (1.1.1993) by S.I. 1992/3218, reg.29.

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### **13 Notice of revocation or restriction.**

- (1) Subject to section 14 below where the Bank proposes—
  - (a) to revoke an authorisation; or
  - (b) to restrict an authorisation; or
  - (c) to vary the restrictions imposed on an authorisation otherwise than with the agreement of the institution concerned,the Bank shall give to the institution concerned written notice of its intention to do so.
- (2) If the proposed action is within paragraph (b) or (c) of subsection (1) above the notice under that subsection shall specify the proposed restrictions or, as the case may be, the proposed variation.
- (3) A notice under subsection (1) above shall state the grounds on which the Bank proposes to act and give particulars of the institution's rights under subsection (5) below.
- (4) Where—
  - (a) the ground or a ground for a proposed revocation or for a proposal to impose or vary a restriction is that it appears to the Bank that the criterion in paragraph 1 of Schedule 3 to this Act is not or has not been fulfilled, or may not be or may not have been fulfilled, in the case of any person; or
  - (b) a proposed restriction consists of or includes a condition requiring the removal of any person as director, controller or manager,the Bank shall give that person a copy of the notice mentioned in subsection (1) above, together with a statement of his rights under subsection (5) below.
- (5) An institution which is given a notice under subsection (1) above and a person who is given a copy of it under subsection (4) above may within the period of fourteen days beginning with the day on which the notice was given make representations to the Bank.
- (6) After giving a notice under subsection (1) above and taking into account any representations made under subsection (5) above the Bank shall decide whether—
  - (a) to proceed with the action proposed in the notice;
  - (b) to take no further action;
  - (c) if the proposed action was to revoke the institution's authorisation, to restrict its authorisation instead;
  - (d) if the proposed action was to restrict the institution's authorisation or to vary the restrictions on an authorisation, to restrict it or to vary the restrictions in a different manner.
- (7) The Bank shall give the institution and any such person as is mentioned in subsection (4) above written notice of its decision and, except where the decision is to take no further action, the notice shall state the reasons for the decision and give particulars of the rights conferred by subsection (9) and section 27 below.
- (8) A notice under subsection (7) above of a decision to revoke or restrict an authorisation or to vary the restrictions on an authorisation shall, subject to section 27(4) below, have the effect of revoking the authorisation or, as the case may be, restricting the authorisation or varying the restrictions in the manner specified in the notice.
- (9) Where the decision notified under subsection (7) above is to restrict the authorisation or to vary the restrictions on an authorisation otherwise than as stated in the notice

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given under subsection (1) above the institution may within the period of seven days beginning with the day on which the notice was given under subsection (7) above make written representations to the Bank with respect to the restrictions and the Bank may, after taking those representations into account, alter the restrictions.

- (10) A notice under subsection (7) above shall be given within the period of twenty-eight days beginning with the day on which the notice under subsection (1) above was given; and if no notice under subsection (7) is given within that period the Bank shall be treated as having at the end of that period given a notice under that subsection to the effect that no further action is to be taken.
- (11) Where the Bank varies a restriction on an institution's authorisation with its agreement or withdraws a restriction consisting of a condition the variation or withdrawal shall be effected by written notice to the institution.
- (12) The Bank may omit from the copy given to a person under subsection (4) above and from a notice given to him under subsection (7) above any matter which does not relate to him.

#### **14 Mandatory revocation and restriction in cases of urgency.**

- (1) No notice need be given under section 13 above in respect of—
  - (a) the revocation of an institution's authorisation in any case in which revocation is mandatory under section 11 above; or
  - (b) the imposition or variation of a restriction on an institution's authorisation in any case in which the Bank considers that the restriction should be imposed or varied as a matter of urgency.
- (2) In any such case the Bank may by written notice to the institution revoke the authorisation or impose or vary the restriction.
- (3) Any such notice shall state the reasons for which the Bank has acted and, in the case of a notice imposing or varying a restriction, particulars of the rights conferred by subsection (5) and by section 27 below.
- (4) Subsection (4) of section 13 above shall apply to a notice under subsection (2) above imposing or varying a restriction as it applies to a notice under subsection (1) of that section in respect of a proposal to impose or vary a restriction; but the Bank may omit from a copy given to a person by virtue of this subsection any matter which does not relate to him.
- (5) An institution to which a notice is given under this section of the imposition or variation of a restriction and a person who is given a copy of it by virtue of subsection (4) above may within the period of fourteen days beginning with the day on which the notice was given make representations to the Bank.
- (6) After giving a notice under subsection (2) above imposing or varying a restriction and taking into account any representations made in accordance with subsection (5) above the Bank shall decide whether—
  - (a) to confirm or rescind its original decision; or
  - (b) to impose a different restriction or to vary the restriction in a different manner.
- (7) The Bank shall within the period of twenty-eight days beginning with the day on which the notice was given under subsection (2) above give the institution concerned written



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notice of its decision under subsection (6) above and, except where the decision is to rescind the original decision, the notice shall state the reasons for the decision.

- (8) Where the notice under subsection (7) above is of a decision to take the action specified in subsection (6) (b) above the notice under subsection (7) shall have the effect of imposing the restriction or making the variation specified in the notice and with effect from the date on which it is given.
- (9) Where a notice of the proposed revocation of an institution's authorisation under section 13 above is followed by a notice revoking its authorisation under this section the latter notice shall have the effect of terminating any right to make representations in respect of the proposed revocation and any pending appeal proceedings in respect of a decision implementing that proposal.

## 15 Surrender of authorisation.

- (1) An authorised institution may surrender its authorisation by written notice to the Bank.
- (2) A surrender shall take effect on the giving of the notice or, if a later date is specified in it, on that date; and where a later date is specified in the notice the institution may by a further written notice to the Bank substitute an earlier date, not being earlier than that on which the first notice was given.
- (3) The surrender of an authorisation shall be irrevocable unless it is expressed to take effect on a later date and before that date the Bank by notice in writing to the institution allows it to be withdrawn.

## 16 Statement of principles.

- (1) The Bank shall, as soon as practicable after the coming into force of this section, publish in such manner as it thinks appropriate a statement of the principles in accordance with which it is acting or proposing to act—
  - (a) in interpreting the criteria specified in Schedule 3 to this Act and the grounds for revocation specified in section 11 above; and
  - (b) in exercising its power to grant, revoke or restrict an authorisation.
- (2) If in the course of a financial year of the Bank it makes a material change in the principles in accordance with which it is acting or proposing to act as mentioned in subsection (1) above it shall include a statement of the change in the report made by it for that year under section 1(3) above; and the Bank may, at any time, publish in such manner as it thinks appropriate a statement of the principles in accordance with which it is acting or proposing to act as mentioned in that subsection.

### Modifications etc. (not altering text)

- C2 S. 16(2) applied (1.1.1993) by S.I. 1992/3218, reg. 9(7), Sch. 3 para. 5(2).  
S. 16(2) applied (1.1.1993) by S.I. 1992/3218, reg. 23(7), Sch. 7 para. 6(2)

## 17 Information as to authorised institutions.

- (1) Every report made by the Bank under section 1(3) above shall contain a list of the institutions which are authorised under this Act at the end of the financial year to which the report relates.

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- (2) The Bank shall make available to any person on request and on payment of such fee, if any, as the Bank may reasonably require a list of the institutions which are authorised either at the date of the request or at such earlier date, being not more than one month earlier, as may be specified in the list.
- (3) The Bank may give public notice of the fact that an institution has ceased to be authorised.

**Modifications etc. (not altering text)**

**C3** S. 17 amended (1.1.1993) by S.I. 1992/3218, reg. 47, **Sch. 8 para.5.**

**18 False statements as to authorised status.**

- (1) No person other than an authorised institution shall—
  - (a) describe himself as an authorised institution; or
  - (b) so hold himself out as to indicate or be reasonably understood to indicate that he is an authorised institution.
- (2) No person shall falsely state, or do anything which falsely indicates, that he is entitled although not an authorised institution to accept a deposit in the course of carrying on a business which for the purposes of this Act is a deposit-taking business.
- (3) Any person who contravenes 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.

**Modifications etc. (not altering text)**

**C4** S. 18 amended (1.1.1993) by S.I. 1992/3218, reg. 47, **Sch. 8 para.6.**

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