

CHAPTER 204**CENTRAL BANK OF MALTA ACT**

To make provision for the establishment of a Central Bank of Malta and the determination of its functions and powers; to make provision for the transfer of the assets and liabilities of the Note Security Fund established by the Currency Notes Ordinance, 1949, to the Central Bank of Malta; and to provide for matters ancillary or incidental thereto.

(17th April, 1968)*

(7th June, 1968)†

Enacted by ACT XXXI of 1967, as amended by Acts: X and XXIX of 1968, XVII and XX of 1971, XXIV of 1972, XIX and LVIII of 1974; Legal Notice 148 of 1975; and Acts: XX of 1981, XIII of 1983, XXXVIII of 1986, XI of 1988, XIV and XXVI of 1994, XXIV of 1995, IX and XVI of 1997.

ARRANGEMENT OF ACT

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*See section 1 of the Act as originally enacted, part of which has been omitted under the Statute Law Revision Act, 1980, and Legal Notice 32 of 1968.

†See Legal Notice 47 of 1968.

PART I

PRELIMINARY

Short title.

1. This Act may be cited as the Central Bank of Malta Act.

Interpretation.
Amended by:
XX.1981.2;
XI.1988. 2;
XXVI.1994.3.

2. In this Act, unless the context otherwise requires -

"Bank" means the Central Bank of Malta established by section 3 of this Act;

"bank" means any person carrying on the business of banking and includes any branch, agency or office in Malta of a bank not incorporated in Malta;

"Board" means the Board of Directors of the Bank established by section 7 of this Act;

"business of banking" means -

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- (a) the business of a person who, as set out in subsection (2) of section 2 of the Banking Act, accepts deposits of money from the public withdrawable or repayable on demand or after a fixed period or after notice or who borrows or raises money from the public (including the raising or borrowing of money by the issue of certificates of deposit, debentures or debenture stock or other instruments creating or acknowledging indebtedness), in either case for the purpose of employing such money in whole or in part by lending to others or otherwise investing for the account and at the risk of the person accepting such money; or
- (b) any business defined by the Minister as constituting the business of banking by an order published in the Gazette;

"Competent Authority" means that authority nominated to regulate the business of banks, financial institutions or other financial services;

"convertible", in relation to any foreign exchange or currency, means foreign exchange or currency which is freely negotiable and transferable in international exchange markets;

"current deposits" means deposits withdrawable by cheque;

"director", in relation to the Bank, includes the Governor and the Deputy Governor;

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"financial institution" means an institution licensed under the Financial Institutions Act, and includes any branch in Malta of an institution not incorporated in Malta;

"Gazette" means the Malta Government Gazette;

"Government" means the Government of Malta;

"Governor" and "Deputy Governor" mean respectively the Governor and the Deputy Governor of the Bank appointed under section 8 of this Act, and "Governor" includes a person for the time being acting as Governor;

"Malta" has the same meaning as is assigned to it by section 124 of the Constitution of Malta;

"Minister" means the Minister responsible for finance;

"savings deposits" means deposits withdrawable on not more than thirty days' notice;

"time deposits" means deposits withdrawable after a fixed period of more than thirty days or on more than thirty days' notice.

PART II

ESTABLISHMENT AND CONDUCT OF AFFAIRS OF BANK

3. (1) There shall be a bank, to be called the Central Bank of Malta. Establishment of Bank.

(2) The Bank shall be a body corporate having a distinct legal personality and be capable, subject to the provisions of this Act, of entering into contracts, of acquiring, holding and disposing of any property for the purpose of its functions, of suing and of being sued, and of doing all such things and entering into all such transactions as are incidental or conducive to the exercise or performance of its functions under this Act.

4. Without prejudice to any other provision of this Act, it shall be the function of the Bank - Principal objects.
Amended by:
XXVI.1994.4.

- (a) to issue legal tender currency notes and to provide or issue legal tender coin in Malta;
- (b) to maintain external reserves so as to safeguard the international value of the currency;
- (c) to influence the volume and conditions of supply of credit so as to promote the orderly and balanced economic development of Malta and a rising level of employment and income consistent with the maintenance of monetary stability in Malta and the external value of the currency;
- (d) to promote a sound financial structure and to foster an orderly capital market in Malta;
- (e) to act as banker to the Government;
- (f) to advise the Government generally on financial matters; and
- (g) to perform such other functions as may be assigned to it by law.

5. The Bank shall have its chief office in Malta; it may open branches in Malta and outside Malta and it may appoint agents and correspondents. Office, agents and correspondents.
Amended by:
XI. 1988.3.

Capital and
Reserves.
Amended by:
XIII. 1983.5.

6. *Repealed by section 5 of Act XXVI of 1994.*

Board of Directors.

7. (1) There shall be a Board of Directors which shall be responsible for the policy and general administration of the affairs and business of the Bank.

(2) The Board shall consist of a Governor, of a Deputy Governor and of three other directors.

Governor and
Deputy Governor.
Amended by:
XIX.1974.2;
LVIII.1974.68;
XIII.1983.2;
XI 1988.4;
XXVI. 1994.6.

8. (1) The Governor and the Deputy Governor shall be persons of recognised experience in financial matters and shall each be appointed by the President of Malta, acting on the advice of the Prime Minister. They shall be appointed for a period not exceeding five years but shall be eligible for re-appointment. They shall receive such remuneration as shall be set out in their respective letters of appointment.

(2) The Governor shall be in charge of the day-to-day management and operations of the Bank in accordance with the policy of the Board and shall be answerable to the Board for his acts and decisions. The representation of the Bank in judicial proceedings shall be vested in the Governor.

(3) The Deputy Governor shall perform such duties as the Governor may direct and, in the event of the absence of, or a vacancy in the office of, the Governor, the Deputy Governor shall perform the duties of the Governor and shall have and may exercise the powers and perform the functions of the Governor.

(4) In the event of the temporary absence of both the Governor and the Deputy Governor, the President of Malta acting on the advice of the Prime Minister, shall designate a director or a senior official of the Bank to act as Governor during such period of absence.

(5) The Governor and the Deputy Governor shall devote the whole of their professional time to the service of the Bank and while holding that office shall not occupy any other office or employment whether remunerated or not:

Provided that they may -

- (a) act or serve as chairmen, governors, directors or members of any board, commission or committee, by whatever name called, established by or under any law to promote, regulate or enquire into matters affecting currency, banking or finance in Malta;
 - (b) become governors, directors or members of the Board, by whatever name called, of any international authority to which the Government shall have adhered or given support or approval;
 - (c) become chairmen or directors of any body corporate in Malta specified under paragraph (i) of section 15 of this Act.
- (6) Subsection (5) of this section shall not apply to a person

appointed to act as Governor under subsection (4) of this section.

9. The directors of the Bank, other than the Governor and Deputy Governor, shall -

Directors other than Governor and Deputy Governor.
Amended by:
XIX. 1974.3.

- (a) be appointed by the Prime Minister;
- (b) be persons of recognised standing and experience in business, professional or academic affairs or in industrial relations but, as directors of the Bank, shall not be regarded or act as delegates from any Government authority or from any commercial, financial, agricultural, industrial or other interest with which they may be or may have been connected, and shall not receive or accept directions from any person or authority;
- (c) hold office for a period not exceeding three years and on such terms and conditions as may be set out in their respective letters of appointment, and shall be eligible for re-appointment;
- (d) be entitled to such honorarium as the Prime Minister may determine.

10. (1) A director who is directly or indirectly interested, otherwise than as a director or in common with other directors, in a contract made or proposed to be made by the Bank shall disclose the nature of his interest at the first meeting of the Board at which he is present after the relevant facts have come to his knowledge.

Conditions of appointment of directors.

(2) Any disclosure made under the preceding subsection shall be recorded in the minutes of the Board and, after the disclosure, that director shall withdraw from the meeting while such contract is discussed or decided on by the Board.

(3) No director shall obtain any credit accommodation from the Bank during his period of office.

11. (1) No person shall be appointed or shall remain a director who -

Disqualification, resignation and filling of vacancies.
Amended by:
XIX.1974.4;
XXVI.1994.7.

- (a) is a member of the House of Representatives;
- (b) is a director or salaried official of an institution regulated by the Bank or holds more than one per centum of the ordinary paid up share capital of such institution;
- (c) is an officer in the public service;
- (d) under the law of any country has been adjudged bankrupt or made a composition with his creditors or is legally incapacitated or has been convicted of a crime affecting public trust or of theft or of fraud or of knowingly receiving property obtained by theft or fraud.

(2) A director may be relieved of his office if he becomes incapable of carrying on his duties or is guilty of serious misconduct in relation to his duties, or is absent from the meetings

of the Board without reasonable cause for such period as the Minister may in the circumstances consider excessive.

(3) A director may resign his office on giving at least three months' notice of his intention in writing to the Prime Minister.

(4) If a director dies, or resigns or otherwise vacates his office before the expiry of the term for which he has been appointed, another person shall be appointed in his place and for the unexpired term of office, in accordance with the provisions of section 8 or 9 of this Act, as the case may require.

Board procedure
and quorum.

12. (1) Meetings of the Board shall take place as often as may be required but not less frequently than ten times in each year, and there shall not be an interval greater than two months between a meeting of the Board and the next meeting.

(2) Meetings of the Board shall be called by the Governor either on his own initiative or at the request of any two of the other directors.

(3) The Governor shall preside as chairman at the meetings of the Board and, in his absence from any meeting, the Deputy Governor shall preside; and no decision shall be valid which is taken at a meeting of the Board at which neither the Governor nor the Deputy Governor is present.

(4) Three members of the Board shall form a quorum at any meeting.

(5) No act or proceeding of the Board shall be invalidated merely by reason of the existence of a vacancy or vacancies among the directors.

(6) Decisions shall be adopted by a simple majority of the votes of the directors present and voting. The chairman shall have an initial vote and, in the event of an equality of votes, he shall have and exercise a casting vote.

(7) All acts done by any person acting in good faith as a director shall be as valid as if he were a director notwithstanding that some defect in his appointment or qualification be afterwards discovered. No act or proceeding of the Board shall be questioned on the ground of the contravention by a director of the provisions of subsection (1) of section 10.

(8) Subject to the provisions of this section, the Board may regulate its own procedure.

Staff appointments.

13. The appointment of officials and other employees of the Bank shall be made by the Board and on such terms and conditions as may be established by the Board.

Exclusion of
liability.
Added by:
XXVI. 1994.8.

13A. The Bank, directors, officers or servants thereof, and any other person appointed to perform a function under this Act, or under any rules or regulations made thereunder, shall not be liable in damages for anything done or omitted to be done in the discharge or purported discharge of any functions under this Act, or any rules or regulations aforesaid, unless the act or omission is

shown to have been done or omitted to be done in bad faith.

14. No salary, fee, wage, allowance or other remuneration paid by the Bank shall be computed by reference to net or other profits of the Bank. Remuneration, etc.

15. The Bank may -

- (a) issue and redeem notes and coins in accordance with the provisions of Part VII;
- (b) issue demand drafts and effect other kinds of remittances payable at its own offices or at the office of agencies or correspondents;
- (c) purchase, sell, lend or deposit gold or silver coin or gold, silver or other precious metal in bullion or in any other form;
- (d) open accounts and accept and place deposits as provided in sections 26 and 33 of this Act, and, in special cases, with the prior approval of the Board, open accounts for and accept deposits from other persons;
- (e) maintain accounts with central or other banks and agents abroad, accept from and place time deposits with any such bank or agent, and act as correspondent, banker or agent for any central or other bank or other monetary authority and for any international financial institution established under government auspices;
- (f) purchase, sell, discount or re-discount -
 - (i) Government Treasury Bills forming part of a public issue;
 - (ii) commercial or financial instruments as may be approved by the Board;
- (g) issue, purchase, sell, discount or re-discount financial instruments bearing the Bank's name and such instruments shall be in such form and for such terms and maturities as may be approved by the Board;
- (h) purchase and sell publicly issued securities of or guaranteed by the Government maturing in not more than twenty years provided that the total holding of such securities at any one time (including any securities held as collateral under paragraph (k) of this section, but excluding any securities held in accordance with the provisions of paragraph (i) or (j) of this section) which mature beyond five years shall not exceed twenty *per centum* of the aggregate of:
 - (i) the value of the Bank's notes and coins issued, excluding coins issued for numismatic purposes;
 - (ii) the deposit liabilities of the Bank; and
 - (iii) the nominal amount of financial instruments issued and outstanding in terms of paragraph (g) of this section;

Principal business and powers of the Bank.

Amended by:
XXIX.1968.2;
XIX.1974.5;
XX.1981.3;
XIII.1983.3;
XXXVIII.1986.2;
XI.1988.5;
XXVI.1994.9;
IX.1997.4.

- (i) subscribe to, purchase and sell shares, bonds or debentures of any body corporate in Malta established by law or sponsored by, or set up under the authority of, the Government, or of such other body corporate as is approved by the Minister, for the purpose of promoting or financing development in Malta or for the purpose of promoting the development of a money market or a securities market in Malta:

Provided that the total investments under this paragraph shall not exceed the Special Reserve Fund established by the Bank under section 18 of this Act;

- (j) invest its staff and pension funds and other internal funds of the Bank in Government securities or other first-class securities approved by the Board;
- (k) grant, at its discretion, to any bank or financial institution in Malta loans and advances on such terms and conditions as may be approved by the Board and for such periods not exceeding twelve months against promissory notes secured by the pledge or deposit with the Bank of -
 - (i) gold or silver coin, or gold, silver or other precious metals in bullion form;
 - (ii) publicly issued Government Treasury bills and securities of the Government which have been publicly offered for sale maturing within twenty years;
 - (iii) financial instruments issued by the Bank;
 - (iv) deposits held at the Bank;
 - (v) other marketable securities as may be approved by the Board;
 - (vi) such bills of exchange and promissory notes as are eligible for purchase, discount or re-discount by the Bank;
 - (vii) documents of title to goods in Malta, duly insured;
- (l) enter into contractual agreements for the repurchase and reverse repurchase of publicly issued securities of or guaranteed by the Government and of other financial instruments as may be approved by the Board;
- (m) when it deems such action necessary to safeguard monetary stability or in other exceptional circumstances, in either case subject to the prior approval of the Minister, grant a loan or advance to any bank incorporated in Malta against such forms of security (other than those provided in paragraph (k) of this section) as the Board may consider appropriate;
- (n) purchase and sell:
 - (i) convertible foreign currencies;

- (ii) negotiable certificates of deposit and bankers' acceptances, maturing within ten years;
- (iii) floating rate notes maturing within ten years;
- (iv) other internationally accepted marketable instruments maturing within ten years:

Provided that the instruments referred to in subparagraphs (ii) and (iii) of this paragraph shall be of first class standing and denominated in convertible foreign currencies and their value shall not exceed twenty-five *per centum* of the total assets referred to in subsection (3) of section 19 of this Act;

- (o) purchase, sell, discount and re-discount bills of exchange drawn in or on places abroad and maturing within ninety-three days exclusive of days of grace from the date of acquisition and Treasury bills issued in or on places abroad and maturing within two years;
- (p) purchase, sell, deposit or lend for consideration securities of first-class standing including securities issued by international financial institutions maturing within fifteen years expressed in convertible foreign currency;
- (q) purchase and sell internationally traded commodities and shares of first class standing denominated in convertible foreign currency and quoted on any established Stock Exchange;
- (r) accept from customers for custody securities and other articles of value;
- (s) undertake on behalf of customers and correspondents the purchase, sale, collection and payment of securities, currencies and credit instruments at home and abroad, and the purchase and sale of gold, silver and other precious metals, internationally traded commodities and quoted commodity shares;
- (t) make arrangements or enter into agreements, subject to the consent of the Minister, with any bank or financial institution in a country abroad, to borrow, in such manner, at such rates of interest, and upon such other terms and conditions as it may deem fit, any foreign currency which it may deem expedient to acquire;
- (u) to exercise the functions assigned to it under the Banking Act;
- (v) subject to the express provisions of this Act, generally conduct business as a bank, and do all such things as are incidental to or consequential upon the exercise of its powers or the discharge of its duties under this Act.

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Prohibited activities.

Amended by:
XXIX.1968.3;
XIX.1974.6;
XX. 1981.4;
XI.1988.6;
XXVI.1994.10.

16. The Bank may not -

- (a) save as expressly authorized by this Act, engage in trade or otherwise have a direct interest in any commercial, agricultural, industrial or any other undertaking, except such interests as the Bank may in any way acquire in the course of the satisfaction of debts due to it, and provided that all such interests so acquired shall be disposed of at the earliest suitable moment;
- (b) save as provided in paragraph (i) and paragraph (q) of section 15 of this Act, acquire the shares of any corporation or company including the shares of any banking company;
- (c) grant loans upon the security of any shares;
- (d) save as provided in paragraph (k) of this section, grant unsecured loans or advances or, save as provided in paragraph (m) of section 15 of this Act, grant loans or advances secured otherwise than as provided in paragraph (k) of the said section 15:

Provided that, in the event of any debts due to the Bank becoming in the opinion of the Bank endangered, the Bank may secure such debts on any immovable or other property of the debtor and may also acquire such property, but such property shall be re-sold at the earliest suitable moment;

- (e) purchase, acquire or lease immovable property except in accordance with the proviso to paragraph (d) of this section or of paragraph (n) of subsection (3) of section 19 or except in so far as the Bank may consider necessary or expedient for the provision, or future provision, of premises for the conduct of its business, for the use of and residence of staff or other similar requirements incidental to the performance of its functions under this Act;
- (f) draw or accept bills payable otherwise than on demand or as provided for under paragraph (g) of section 15 of this Act;
- (g) allow the renewal or substitution of maturing bills of exchange purchased, discounted or re-discounted by, or pledged or deposited by way of security with, the Bank:

Provided that the Board may, in exceptional circumstances, by resolution authorise one renewal or one substitution only, in either case of not more than fifty *per centum* of the original amount of any such bill and for a period not exceeding ninety days;

- (h) accept for discount, or as security for an advance made by the Bank, bills or notes signed by members of the Board or by the Bank's officials or other employees;
- (i) pay interest except, at its discretion, on deposits

maintained with the Bank in accordance with section 26, subsection (1) of section 33 or section 37 of this Act, or on special accounts maintained with the approval of the Board;

- (j) open accounts and accept and place deposits otherwise than as provided in paragraphs (d) and (e) of section 15 of this Act;
- (k) grant to or permit to be outstanding in respect of any one of its employees unsecured advances or unsecured credit facilities which in the aggregate exceed twelve months emoluments of such employees.

17. The Bank shall make public at all times its minimum discount rate. Publication of discount rate.

PART III

FINANCIAL PROVISIONS

18. (1) The Bank shall have an authorised capital of five million liri which shall be fully paid and shall be held exclusively by the Government. Capital and Reserves.
Amended by:
XIII. 1983.5.
Substituted by:
XXVI. 1994.11.

(2) The Bank shall maintain a General Reserve Fund and a Special Reserve Fund.

(3) The General Reserve Fund and the Special Reserve Fund shall not be less than two million liri and five million liri respectively.

(4) The Special Reserve Fund shall be available for those investments provided for in paragraph (i) of section 15 of this Act or for any other similar purpose approved by the Minister.

(5) With the approval of the Minister, further allocations may be made to both the General Reserve Fund and the Special Reserve Fund as may become necessary from time to time.

19. (1) The Bank shall at all times maintain a reserve of external assets consisting of gold, silver or other precious metals, convertible foreign exchange, internationally traded commodities and shares of first class standing denominated in convertible foreign currencies and quoted on any established Stock Exchange and immovable property situated outside Malta. External reserves.
Substituted by:
XIX.1974.7;
XX.1981.5.
Amended by:
XXXVIII. 1986.3;
XI.1988.7;
XXVI. 1994.12.

(2) The relation of the value of the reserve of external assets to the value of the Bank's liabilities under paragraph (h) of section 15 of this Act shall be determined and may be varied by the Minister on the recommendation of the Board by a directive issued under section 32 of this Act and such determination or variation shall be duly notified in the Gazette.

(3) The assets held in accordance with subsection (1) of this section shall consist of one or more of the following assets approved by the Board:

- (a) gold bullion;
- (b) silver or other precious metal bullion;
- (c) gold or silver coin;
- (d) cash;
- (e) bank balances;
- (f) money at call;
- (g) bills of exchange;
- (h) Treasury bills;
- (i) negotiable certificates of deposits, floating rate notes and similar instruments;
- (j) time deposits with first class banks and financial institutions maturing within two years;
- (k) marketable securities of first-class standing maturing within fifteen years;
- (l) internationally traded commodities; and shares of first class standing denominated in convertible foreign currencies and quoted on any established Stock Exchange;
- (m) any readily available international drawing facility, which the Bank, after consultation with the International Monetary Fund and with the approval of the Minister, considers suitable for inclusion in such reserve;
- (n) immovable property situated outside Malta, consisting of commercial or residential premises or rights thereon, for eventual lease or sale as the Board may deem fit.

(4) The securities held under the provisions of paragraph (k) of subsection (3) of this section which mature beyond five years shall not exceed twenty-five *per centum* of the total assets referred to in that subsection.

(5) The total value of the assets held under the provisions of paragraph (l) of subsection (3) of this section shall at no time exceed ten *per centum* of the total value of the external reserve of the Bank.

(6) The total value of the assets held under the provisions of paragraph (n) of subsection (3) of this section shall at no time exceed two and one half *per centum* of the total value of the external reserves of the Bank.

Investment
Committee.
Added by:
XX. 1981.6.

20. *Repealed by section 8 of Act XI of 1988.*

Financial year.
Amended by:
XXVI.1994.13.

21. The financial year of the Bank shall begin on the first day of January and end on the thirty-first day of December.

22. (1) The accounts of the Bank shall be audited by auditors appointed annually by the Board with the approval of the Minister.

Audit.
Amended by:
XVI. 1997.7.

(2) Without prejudice to the provisions of subsection (1) of this section, the Minister may at any time request the Auditor General or such other person as he may appoint for the purpose, to make an examination of, and submit a report on, the accounts relating to the issue, re-issue, exchange and withdrawal of notes and coins by the Bank or, in such exceptional circumstances as the Minister may deem proper, the accounts of the Bank as a whole, and the Auditor General or such other person as aforesaid, shall do so accordingly and the Bank shall provide all necessary and proper facilities therefor.

23. (1) The Bank shall, as soon as may be but not later than three months after the close of each financial year of the Bank, transmit to the Minister -

Annual accounts.
Amended by:
XX. 1981.7;
XI. 1988.9.

(a) a copy of the annual accounts certified by the auditors, and

(b) a report on its operations during that year,

and shall publish the report referred to in paragraph (b) of this subsection.

(2) The Minister shall, as soon as may be and, in respect of the requirement of paragraph (a) of this subsection, not later than the first sitting of the House of Representatives after the seventh day of April -

(a) cause a copy of the annual accounts and of the report aforesaid to be laid before the House of Representatives; and

(b) cause a copy of the annual accounts of the Bank to be published in the Gazette.

(3) The Bank shall, as soon as may be after the last working day of each month, make up and publish a return of its assets and liabilities as at the close of business on that day. A copy of the return shall be transmitted to the Minister who shall cause it to be published in the Gazette.

(4) The accounts of the Bank and the report aforesaid, shall be debated by the House on a motion presented by the Minister for that purpose as soon as practicable after he has complied with the foregoing provisions of this section. Not less than one sitting shall be allotted for the debate on such a motion.

Determination and allocation of profits.

Amended by:

X.1968.2;

XIX.1974.8.

Substituted by:

XX.1981.8.

Amended by:

XIII. 1983.5;

XXXVIII. 1986.4;

XI. 1988.10; XXVI.

1994.14.

24. (1) Subject to the following provisions of this section, the net profits of the Bank for each financial year shall be determined by the Bank after meeting all current expenditure for that year and after making such provision as it thinks fit for bad and doubtful debts, depreciation in assets, contributions to staff and pension funds and all other reserves and contingencies.

(2) The profits and losses which are attributable to any revaluation of the Bank's net assets or liabilities in gold, silver or other precious metal, commodities, immovable property situated outside Malta, foreign exchange or foreign securities or shares, made as a result of any adjustment of the external value of the Maltese lira in terms of section 40 of this Act shall be excluded from the computation of the annual profits and losses of the Bank and shall be credited or debited, as the case may be, to a special account to be called the Revaluation Account; and the balance in such account shall be dealt with in accordance with subsection (3) of this section.

(3) With effect from the year 1985, and at intervals of five years thereafter, the Minister shall as early as practicable after the end of such year or interval, make proposals as to how any debit or credit balance in the Account at the end of the previous year shall be dealt with and shall cause such proposals to be laid before the House of Representatives not later than the first sitting of the House after the 30th day of April of the year in which the proposals are made, together with a motion that the House approves the said proposals. Not less than one sitting shall be allotted for the debate on such a motion.

(4) After such allocations as are referred to in subsection (4) of section 18 of this Act have been made, the remainder of the net profits established as aforesaid shall be paid to the Government.

PART IV

RELATIONS WITH GOVERNMENT

Adviser to Government.

25. The Bank shall advise the Government generally on financial matters.

Bank to be banker to Government.

26. (1) The Bank shall act as banker to the Government and may open accounts for and accept deposits from the Government:

Provided that the Government may maintain accounts in Malta with and generally use the services of other banks in such cases and on such conditions as may be agreed between the Minister and the Bank.

(2) The Bank may open accounts for and accept deposits from funds, corporations and institutions controlled by the Government or established by law and act as banker to any such funds, corporations and institutions.

Advances to Government.

27. (1) Notwithstanding the prohibition contained in paragraph (d) of section 16 of this Act, the Bank may grant

temporary advances to the Government in respect of temporary deficiencies of budget revenue at such rate or rates of interest as may be agreed between the Minister and the Bank.

(2) The total amount of such advances outstanding at any one time shall not exceed fifteen *per centum* of the estimated recurrent budget revenue as laid before the House of Representatives in respect of the financial year in which the advances are granted.

(3) All such advances shall be repaid as soon as possible and shall in any event be repayable by the end of the financial year in which they are granted. If after that date such advances remain unrepaid the power of the Bank to grant further advances under this section in any subsequent financial year shall not be exercisable unless and until the outstanding advances have been repaid.

28. The Bank may act generally as agent for the Government -

Bank as agent for Government.

- (a) where the Bank can do so appropriately and consistently with the provisions of this Act and with its duties and functions as a Central Bank; and
- (b) on such terms and conditions as may be agreed between the Government and the Bank.

29. The Bank may be entrusted with the issue and management of Treasury bills and Government loans publicly issued in Malta upon such terms and conditions as may be agreed between the Minister and the Bank.

Issue and management of Government loans.

30. *Repealed by section 9 of Act XI of 1988.**

Posterity Fund.
Added by:
XX.1981.9.
Amended by:
XXXVIII. 1986.5.

31. The Bank shall keep the Minister informed of the policy of the Bank.

Information to Minister.

**Act XI of 1988: Transitory Provision*

(2) Notwithstanding the repeal of section 30 of the principal Act, the Posterity Fund shall continue to exist but shall be wound up with effect from a date which shall not be later than the 30 June, 1988, and which shall be specified by the Minister by notice in the Gazette.

(3) On the date so specified by the Minister all assets, liabilities and the net profits of the Posterity Fund up to that date shall be transferred to Government and passed to the Consolidated Fund and all rights and obligations of the Fund shall vest in the Government.

(4) Notwithstanding the provisions of any other law, the management, control and administration of the Posterity Fund shall be deemed to have vested in the Bank from 12 May, 1987 until the date specified by the Minister as provided under subsection (2) of this section and anything done by the Bank in the management, control and administration of that Fund as aforesaid during that said period shall be deemed to have been done under the authority of this section.

(5) The Bank shall be responsible for winding up the Posterity Fund and for drawing up audited accounts of that Fund for the year closing on 31 December, 1987 and for the period from 1 January, 1988 to the date specified by the Minister under subsection (2) of this section.

(6) The Bank shall as soon as may be but not later than six months after the audited accounts of the Posterity Fund have been finalized as provided under subsection (5) of this section, transmit to the Minister a copy of such audited accounts and the Minister shall cause that copy to be laid before the House of Representatives and to be published in the Gazette.

Directions by the Minister.
Substituted by:
XXVI. 1994.16.

32. The Minister may, if he thinks it necessary in the national interest, and after consultation with the Governor of the Bank or as provided for under subsection (2) of section 19 of this Act, give to the Bank such directions in writing as he may deem appropriate in terms of paragraphs (b) and (c) of section 4 of this Act, and the Bank shall comply with such directions.

PART V

RELATIONS WITH BANKS AND FINANCIAL INSTITUTIONS

Amended by:
XXVI. 1994.17

Banker to banks and accounts with banks.

Substituted by:
XXIX. 1968.4.
Amended by:
XXVI. 1994.18.

33. (1) The Bank may act as banker to banks and financial institutions in Malta and may open accounts for and accept deposits from such banks and financial institutions.

(2) The Bank may also, with the approval of the Minister, open accounts and place deposits with banks.

Other banks as agents.

34. The Bank may in exceptional circumstances appoint one or more other banks in Malta to act as its agent for the issue, re-issue, exchange and withdrawal of notes and coin, or for other purposes, on such terms and conditions as may be agreed between the Bank and each of such other banks.

Co-operation with other banks.
Substituted by:
XXVI. 1994.19.

35. The Bank shall seek the co-operation of, and shall cooperate with, banks and financial institutions in Malta to further such policies not inconsistent with this Act as shall be in the national interest.

Clearing-house.

36. The Bank may promote the establishment of a bank clearing system and provide facilities therefor.

Banks' deposits with Bank.
Amended by:
LVIII.1974.68;
L.N.148 of 1975;
XIII. 1983.5;
XXVI. 1994.20;
XXIV.1995.362;
IX.1997.4.

37. (1) The Bank may require banks carrying on the business of banking in Malta to maintain reserve deposits with the Bank of not less amount than represents such minimum percentage of each bank's deposit liabilities in Malta as the Bank may from time to time specify.

(2) The amount of reserve deposits referred to in subsection (1) of this section shall be exclusive of any sum which a bank may agree to hold with the Bank as a working balance.

(3) For the purposes of subsection (1) of this section -

- (a) the minimum percentage so required shall not at any time exceed twenty *per centum* of the liabilities in question;
- (b) different minimum percentages may be specified for current deposits, savings deposits and time deposits;
- (c) the method of computing the minimum percentage shall be determined by the Bank;
- (d) no bank shall be required to maintain a larger minimum proportion than any other bank.

(4) Notwithstanding what is provided for in subsections (1), (2)

and (3) of this section, the Bank may, at its discretion, allow any bank as is referred to in subsection (1) of this section to make drawings from its reserve deposits:

Provided that such drawings shall be made and repaid in such manner and within such period as the Bank may from time to time by notice to the banks prescribe.

(5) Whenever the Bank increases any minimum percentage referred to in this section, every bank shall be allowed such period, being not less than fourteen days, as the Bank may specify in which to comply.

(6) The Bank may require any bank to furnish such information, and in such form, as it may deem necessary to satisfy itself that the bank concerned is holding not less than the required minimum percentage referred to in this section.

(7) Any bank which acts in contravention of any requirements of the Bank made under this section shall be liable to a penalty not exceeding five hundred liri for every day during which the offence continues and such penalty shall, at the instance of the Attorney General by writ of summons in the Civil Court, First Hall, be fixed by that court and be recoverable as a civil debt due to the Government.

38. (1) Notwithstanding anything else contained in any other law, the Bank may from time to time determine and announce:

- (a) the maximum or the minimum rates of interest which banks may pay on deposits or both such maximum and minimum rates;
- (b) the maximum percentage margin over the Bank's minimum discount rate which banks and financial institutions may charge on loans and advances; different margins may be set for different categories of transactions or for different economic sectors.

Regulation of interest rates of banks.

Amended by:
LVIII. 1974.68;
L.N. 148 of 1975;
XIII. 1983.5;
XXVI. 1994.21;
XXIV.1995.362.

(2) Any bank or financial institution which acts in contravention of any determination announced by the Bank under this section shall be liable to a penalty not exceeding five hundred liri in respect of each offence and such penalty shall, at the instance of the Attorney General by writ of summons in the Civil Court, First Hall, be fixed by that court and be recoverable as a civil debt due to the Government.

38A. The Bank may in respect of loans and advances granted by banks and financial institutions:

- (a) prescribe the purposes for which these may or may not be made;
- (b) prescribe maximum maturities and the type of security that may be required;
- (c) establish limits for any particular categories of loans and advances or for the total amount outstanding.

Regulation of loans and advances by banks and financial institutions.

Added by:
XXVI.1994.22.

Assets held by
banks and financial
institutions outside
Malta.

Added by:
XXVI. 1994.22.

Information by
banks.

Added by:
XXVI. 1994.22.

38B. The Bank may determine from time to time the amount that banks and financial institutions may hold as assets outside Malta.

38C. (1) The Bank may require banks to submit such information as the Bank may require in the discharge of its duties under this Act.

(2) Any information submitted by banks shall be regarded as secret and confidential except as provided for under section 38F of this Act.

(3) The Bank shall prepare and publish consolidated statements aggregating the information so furnished under this section and under subsection (1) of section 38D of this Act.

Added by:
XXVI. 1994.23.

PART VI

RELATIONS WITH THE COMPETENT AUTHORITY

Information,
inspection and
reporting by the
Competent
Authority.

38D. (1) The Bank may require the Competent Authority to pass to it any information in the possession of or accessible to the Competent Authority which is necessary for the Bank in the discharge of its duties under this Act or any other Act.

(2) The Bank may, in writing, request the Competent Authority to inspect, verify and file a report to the Bank on any matter which the Bank may reasonably require in the exercise of its duties under this Act or any other Act and the competent authority shall comply with such request.

Information to
Competent
Authority.

Cap. 371.

Confidentiality

38E. The Bank shall pass to the Competent Authority any information in the possession of or accessible to the Bank when so requested by the Competent Authority in the exercise of its duties under the Banking Act or any other Act.

38F. Any information obtained by the Bank pursuant to section 38C of this Act may be communicated to the Competent Authority which shall receive such information subject to the duty of professional secrecy.

Amended by:
XXVI. 1994.24.

PART VII

CURRENCY

Currency of Malta.

Substituted by:
XX.1971.2.

Amended by
XIX. 1974.9;
XIII.1983.4, 5;
XXVI.1994.25.

39. (1) The unit of currency in Malta shall be the Maltese lira; and the symbol of the Maltese lira shall be Lm.

(2) The Maltese lira shall be divided into one hundred cents and each cent shall be divided into ten mils.

(3) The Minister may make regulations regarding the treatment of the Maltese lira for accounting purposes.

40. The external value of the Maltese lira shall be determined and may be subsequently adjusted or suspended by the Minister on the recommendation of the Bank and with the consent of the Prime Minister, having due regard to the obligations that Malta has assumed in accordance with the provisions of the Articles of Agreement of the International Monetary Fund. Notice of such determination, adjustment or suspension shall be published in the Gazette at the earliest opportunity.

External value of the Maltese lira.
Amended by:
X.1968.3.
Substituted by:
XIX.1974.10;
XX.1981.10.
Amended by:
XIII. 1983.5.

41. (1) Subject to the provisions of any law relating to the control of exchange and to subsection (2) of this section, the Bank shall at its chief office in Malta issue and redeem Malta currency at its discretion against gold or other assets eligible for inclusion in the reserve of external assets specified in section 19 of this Act in such amounts and at such rate of exchange as the Bank shall determine.

Issue and redemption of currency. *Amended by:* *XVII. 1971.2;* *XXIV.1972.2.*
Substituted by: *XIX.1974.11.*
Amended by: *XX. 1981.11;* *XIII. 1983.5.*

(2) The rates of exchange quoted by the Bank for spot transactions in terms of subsection (1) of this section shall not differ from the external value of the Maltese lira in terms of any other currency by a margin in excess of that determined from time to time by the Minister by notice in the Gazette.

42. (1) The Bank shall have the sole right of issuing legal tender currency notes in Malta, and shall provide for the printing of such notes and for all matters relating to the security of such notes.

Notes.
Amended by: *XIX.1974.12;* *XI. 1988.12;* *XXVI. 1994.26.*

(2) Notes issued by the Bank shall be in such denominations, and of such forms and designs, as shall be approved by the Minister on the recommendation of the Bank.

(3) Notes issued or deemed to be issued by the Bank under this Act shall be legal tender in Malta at their face value for the payment of any amount.

(4) Notwithstanding the provisions of subsection (3) of this section, the Bank shall have power, on due notice being given through the Minister in the Gazette, to call in any of the notes currently legal tender on payment of the face value thereof and any such notes shall, on the expiration of the period mentioned in the notice, cease to be legal tender but, subject to the provisions of subsection (5) of this section and until the expiration of ten years following the end of the period aforesaid, shall be redeemable by the Bank on demand at par and without charge.

(5) No person shall be entitled to recover from the Bank the value of any lost, stolen, mutilated or imperfect note. The circumstances in which, and the conditions and limitations subject to which the value of lost, stolen, mutilated or imperfect notes may be refunded as of grace shall be within the absolute discretion of the Bank.

(6) After the expiration of one year following the end of the period mentioned in the notice calling in any notes under subsection (4) of this section, any notes so called in but not presented for redemption shall cease to be included in the currency liabilities of the Bank and -

- (a) the value of such notes shall be added to the profits of the Bank for the financial year during which the said period of one year expires; and
- (b) the redemption of any notes thereafter shall be a charge on the profit and loss account of the Bank for the year in which they are so redeemed.

Coin.
Amended by:
XX.1971.3;
XI. 1988.13; XXVI.
1994.27.

43. (1) The Bank shall have the sole right of issuing legal tender coins in Malta, and shall provide for the minting of such coins and for all matters relating to the security of such coins.

(2) Coins issued by the Bank shall be in such denominations, and of such forms and designs, as shall be approved by the Minister on the recommendation of the Bank.

(3) The standard weight and composition of coins issued by the Bank and the amount of remedy and variation shall be determined by the Minister on the recommendation of the Bank.

(4) Coins issued by the Bank shall, if such coins have not been tampered with, be legal tender in Malta for such amounts as may be notified in the Gazette by the Minister on the recommendation of the Bank.

(5) A coin shall be deemed to have been tampered with if the coin has been impaired, diminished or lightened otherwise than by fair wear and tear or has been defaced.

(6) Notwithstanding the provisions of subsection (4) of this section, the Bank shall have power, on due notice being given by the Minister in the Gazette to call in any of the coins currently legal tender on payment of the face value thereof and any such coins shall, on the expiration of the period mentioned in the notice, cease to be legal tender but, subject to the provisions of subsections (5) and (9) of this section and until the expiration of two years following the end of the period aforesaid shall be redeemable by the Bank on demand at par and without charge.

(7) After the expiration of six months following the end of the period mentioned in the notice calling in any coins under subsection (6) of this section, any coins so called in but not presented for redemption shall cease to be included in the coin liabilities of the Bank and -

- (a) the value of such coins shall be added to the profits of the Bank for the financial year during which the said period of six months expires; and
- (b) the redemption of any coins thereafter shall be a charge on the profit and loss account of the Bank for the year in which they are redeemed.

(8) Any coin which has been tampered with or has ceased to be legal tender or is counterfeit may be called in, cut, broken, destroyed or otherwise disposed of in such manner and under such conditions as the Bank may determine. It shall be lawful for any Police officer to seize any such coin as aforesaid from the possession of any person even though such person be not charged

with, or suspected of having committed, a crime.

(9) No person shall be entitled to recover from the Bank the value of any lost, stolen, mutilated or imperfect coin. The circumstances and conditions under which such value may be refunded as of grace shall be within the absolute discretion of the Bank.

44. For the purposes of the next following four sections, "currency note" means a currency note issued or deemed to be issued under this Act and any other note, by whatever name called, which is legal tender in the country outside Malta in which it is issued.

Definition of
currency note.

45. Whosoever forges any currency note or utters any forged currency note knowing the same to be forged shall be liable, on conviction, to imprisonment for a term of not less than two years and not exceeding nine years:

Forgery and
uttering of
currency. *Amended
by: XXVI.1994.28.*

Provided that where a forged currency note is uttered by a person who proves that at the time at which it came into his custody or possession he did not know the same to be forged, the punishment shall be reduced to a term of imprisonment of not less than two months and not exceeding three years.

46. Whosoever without lawful authority or lawful or reasonable excuse (the proof whereof shall lie on the person accused) purchases or receives from any person, or has in his custody or possession, a forged currency note knowing the same to be forged shall be liable, on conviction, to imprisonment for a term of not less than thirteen months and not exceeding five years.

Possession of
forged notes.

47. Whosoever without lawful authority or lawful or reasonable excuse (the proof whereof shall lie on the person accused) -

Making or having
in possession paper
or implements for
forgery.

- (a) makes, uses, or knowingly has in his custody or possession, any paper intended to resemble and pass as special paper such as is provided and used for the making of any currency note, or any such special paper,
- (b) makes, uses, or knowingly has in his custody or possession, any frame, mould or instrument for making such paper, or for producing in or on such paper any words, figures, letters, marks, lines, or devices, peculiar to and used in or on any such paper,
- (c) engraves or in anywise makes upon any plate, wood, stone, or other material, any words, figures, letters, marks, lines or devices, the print whereof resembles in whole or in part the words, figures, letters, marks, lines, or devices, peculiar to and used in or on any currency note,
- (d) uses or knowingly has in his custody or possession any plate, wood, stone, or other material, upon which any such words, letters, figures, marks, lines, or devices, have been engraved or in anywise made as aforesaid,

- (e) uses or knowingly has in his custody or possession any paper upon which any such words, figures, letters, marks, lines, or devices, have been printed or in anywise made as aforesaid,

shall be liable, on conviction, to imprisonment for a term of not less than thirteen months and not exceeding five years.

Mutilation and
defacement of
currency notes.
Amended by:
XIII. 1983.5;
XXVI. 1994.29

48. Whosoever without lawful authority or lawful or reasonable excuse (the proof whereof shall lie on the accused person) mutilates, cuts, tears, or perforates with holes, any currency note or in any way defaces any currency note by writing, printing, drawing, or stamping thereon, or by attaching or affixing thereto anything in the nature or form of an advertisement, shall be liable, on conviction, to a fine (*multa*) not exceeding fifty liri.

Coinage offences.
Amended by:
XXVI. 1994.30.

49. (1) Whosoever counterfeits or lightens or impairs or melts down any coin or introduces or utters any counterfeit or debased coin knowing the same to be counterfeit or debased shall be liable, on conviction, to imprisonment for a term of not less than thirteen months and not exceeding nine years:

Provided that where a counterfeit or debased coin is introduced or uttered by a person who proves that at the time at which it came into his custody or possession he did not know the same to be counterfeit or debased, the punishment shall be reduced to a term of imprisonment of not less than two months and not exceeding three years.

(2) Whosoever, without the authority of the Bank, makes or knowingly keeps in his possession any die or other instrument or machine exclusively intended for coinage shall, on conviction, be liable to imprisonment for a term of not less than nine months and not exceeding two years.

(3) For the purposes of this section, "coin" means a coin, by whatever name called, which is legal tender in Malta or which is legal tender in the country outside Malta in which it is issued.

Reproduction of
notes and coins.
Added by:
XXVI. 1994.31.

49A. Notwithstanding anything contained in the foregoing sections, under duly warranted circumstances the Bank may, subject to specific conditions, authorise the reproduction of currency notes or coins.

Amended by:
XXVI. 1994.32.

PART VIII

GENERAL

Preliminary
expenses.

50. *Repealed by section 33 of Act XXVI of 1994.*

Transfer of assets
from the Currency
Board.
Amended by:
XIII. 1983.5.

51. *Repealed by section 33 of Act XXVI of 1994.*

52. *Repealed by section 33 of Act XXVI of 1994.*

Surplus transferred assets.

Amended by:
XIII. 1983.5.

53. The Board may, with the approval of the Minister, make bye-laws, not inconsistent with this Act, for the good order and management of the Bank, and the Minister shall cause such bye-laws to be published in the Gazette.

Bye-laws.

54. The Bank shall be exempt from any liability for the payment of income tax and duty on documents and transfers under any law for the time being in force.

Exemption from income tax and duty on documents and transfers.

Substituted by:
XXVI.1994.34.

55. *Repealed by section 35 of Act XXVI of 1994.**

Maintenance of orderly conditions in the capital market.

Amended by:
LVIII. 1974.68;
L.N.148 of 1975;
XIII.1983.5.

*Act XXVI of 1994: Transitory Provision.

36. The provisions of this Act (Act XXVI of 1994) amending the principal Act (Chapter 204) in matters concerning the office of the Deputy Governor shall apply only to persons appointed to that office after the date of the coming into force of the provisions of this Act and, in respect of a person appointed before that date, the provisions of the principal Act on the matters aforesaid shall continue to apply as they were in force prior to such amendments.