

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

1st January, 2000

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, and XVII of 2002.

ARRANGEMENT OF ACT

	Articles
Part I.	Preliminary
	1-2
Part II.	Establishment and Conduct of Affairs of Bank
	3-16
Part IIA.	Monetary Policy
	17-17D
Part III.	Financial Provisions
	18-24
Part IIIA.	Collection of Information
	24A-24B
Part IV.	Relations with Government
	25-32
Part V.	Relations with Banks and Financial Institutions
	33-38
Part VI	Relations with the Competent Authority
	38A-38C
Part VII.	Currency
	39-49A
Part VIII.	General
	53-55

PART I

PRELIMINARY

Short title.	1. The short title of this Act is Central Bank of Malta Act.
Interpretation. <i>Amended by:</i> <i>XX.1981.2;</i> <i>XI.1988.2;</i> <i>XXVI.1994.3;</i> <i>XVII.2002.66.</i>	2. In this Act, unless the context otherwise requires - "Bank" means the Central Bank of Malta established by article 3 of this Act; "bank" or "credit institution" means any person carrying on the business of banking and includes any branch, agency or office in Malta of a bank or credit institution not incorporated in Malta; "Board" means the Board of Directors of the Bank established by article 7 of this Act; "business of banking" has the same meaning assigned to it under the Banking Act;
Cap. 371.	"Competent Authority" means that authority nominated to regulate the business of banks, financial institutions or other financial services under the Banking Act, the Financial Institutions Act, the Investment Services Act, the Insurance Business Act, the Insurance Brokers and other Intermediaries Act, the Financial Markets Act, or such other law as the Minister may from time to time by notice in the Gazette for the purposes of and under the authority of this article establish;
Cap. 371. Cap. 376. Cap. 370. Cap. 403. Cap. 404. Cap. 345.	"directive" means a directive issued by the Bank under this Act; "director", in relation to the Bank, includes the Governor and the Deputy Governor; "external assets" includes securities and all other assets in the currency of any country other than Malta or units of account in whatever form held;
Cap. 376.	"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 article 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 article 124 of the Constitution of Malta; "Minister" means the Minister responsible for finance.

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. (1) The primary objective of the Bank shall be to maintain price stability. Without prejudice to its primary objective, the Bank shall promote orderly and balanced economic development. Principal objective. Amended by: XXVI.1994.4. Substituted by: XVII. 2002.67.

(2) To the extent that this does not interfere with its primary objective, it shall also be the objective of the Bank -

- (a) to influence the volume and conditions of supply of credit;
- (b) to manage and maintain external reserves, so as to safeguard the international value of the currency;
- (c) to ensure the stability of the financial system;
- (d) to promote and participate in the establishment of a sound and efficient payment system;
- (e) to issue legal tender currency notes and coins;
- (f) to advise the Government generally on financial and economic matters;
- (g) to compile and publish statistics as may be necessary to carry out its tasks under the provisions of this Act and of any other law;
- (h) to perform such other functions as may be assigned to it by law.

(3) The Bank may issue, amend or revoke directives as may be required for carrying into effect any of the provisions of this Act.

5. The Bank shall have its principal office in Malta; it may open offices outside Malta and it may appoint agents and correspondents. Principal office of Bank. Amended by: XI. 1988.3. Substituted by: XVII. 2002.68.

6. *Repealed by article 5 of Act XXVI of 1994.* Capital and Reserves. Amended by: XIII. 1983.5.

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, except in relation to matters of monetary policy under articles 17 to 17D. Board of Directors. Amended by: XVII. 2002.69.

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

(3) Without prejudice to the provisions of articles 39 to 49A, neither the Bank, nor any member of the Board when exercising the functions, duties and powers under this Act, shall seek or take instructions from the Government or from any other body.

Governor and
Deputy Governor.
Amended by:
XIX.1974.2;
LVIII.1974.68;
XIII.1983.2;
XI 1988.4;
XXVI. 1994.6;
XVII. 2002.70.

8. (1) The Governor and the Deputy Governor shall be persons of recognised standing and experience in economic, financial or banking 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 term of 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) Without prejudice to the provisions of article 17, 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) *Deleted by Act XVII. 2002.70.*

(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 be appointed in their capacity as Governor or Deputy Governor of the Bank, as the case may be, to sit on any board, commission or committee, by whatever name called, whether in Malta or outside Malta and provided further that such activity is not in the opinion of the Board in conflict with the performance of their duties under this Act.

Directors other
than Governor and
Deputy Governor.
Amended by:
XIX. 1974.3;
XVII. 2002.71.

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

- (a) be appointed by the Prime Minister;
- (b) be persons of recognised standing and professional experience in economic, financial or banking affairs;
- (c) hold office for a period of five 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.

Disclosure of interest.
Amended by:
XVII. 2002.72.

(2) Any disclosure made under the preceding sub-article 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;
XVII. 2002.73.

- (a) is a member of the House of Representatives;
- (b) is a director or salaried official of an institution licensed to provide financial or banking services 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;
- (e) holds any other position, or is otherwise in a position, which is in conflict with his duties as a director under this Act.

(2) A director may be relieved of his office only if he no longer fulfils the conditions required for the performance of his duties or if he has been guilty of serious misconduct.

(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, in accordance with the provisions of article 8 or 9, as the case may require.

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.

Board procedure and quorum.

(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 article 10(1).

(8) Subject to the provisions of this article, 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.
Amended by:
XVII. 2002.74.

13A. (1) 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.

(2) The provisions of subarticle (1) shall also apply to the Bank and to any director, officer or servant thereof and to any other person appointed by the Bank, in the performance or purported performance of any function assigned to the Bank or to any director, officer, servant or other person under any other law.

Remuneration, etc.

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.

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.
Substituted by:
XVII. 2002.75.

15. (1) Without prejudice to the other provisions of this Act, the Bank may, in order to achieve its objectives and to carry out its functions under this Act:

- (a) open accounts and accept and place deposits as provided in articles 26 and 33, and, in special cases, with the prior approval of the Board, open accounts for and accept deposits from other persons;
- (b) maintain accounts with central banks or other credit institutions and agents abroad, accept from, and place deposits with, any such credit institution or agent, and act as correspondent, banker or agent for any central

bank or other credit institution or other monetary authority and for any international financial institution established under international treaties;

- (c) subscribe to, purchase, sell, discount or re-discount equity, debt or other financial instruments as may be approved by the Board, provided that any equity interests in an undertaking as the Bank may in any way acquire in the course of the satisfaction of debts due to it shall be disposed of at the earliest suitable moment;
- (d) issue, purchase, sell, discount or re-discount financial instruments bearing the Bank's name in such form and for such terms and maturities as may be approved by the Board;
- (e) at its discretion, grant to any credit 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 such adequate security as the Board may consider appropriate;
- (f) 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; and
- (g) when it deems such action necessary to safeguard financial stability or in other exceptional circumstances, grant a loan or advance to any credit institution incorporated in Malta against such forms of security as the Board may consider appropriate.

(2) In managing and maintaining the external reserves, the Bank may carry out any transactions that it deems suitable, and in particular it may:

- (a) hold, manage, acquire and sell, spot and forward, all types of external assets and precious metals; and
- (b) carry out any type of financial transaction with domestic or foreign institutions or with international organisations, including borrowing and lending operations.

(3) The Bank may 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.

(4) Subject to any other provisions of this Act, the Bank may generally conduct business as a bank, and do all things as are incidental to or consequential upon the exercise of its powers or the discharge of its duties under this Act.

(5) (a) The Bank shall, in the exercise of its functions as a Central Bank under this Act, enjoy a special privilege over any funds held in the accounts of the Bank as well as any securities, precious metals or any other assets belonging to its debtors and

deposited with it as well as any other funds or other assets pledged in its favour by its debtors or by third parties to guarantee the obligations of its debtors.

(b) The special privilege granted by this subarticle shall rank before any other privilege under any other law and notwithstanding the provision of any other law the funds and other assets subject to such privilege shall be applied to the satisfaction of the debt due to the Bank before any other claim.

(c) The Bank may, subsequent to prior notification to the debtor, apply any such funds or assets in satisfaction of the debts due to it without the necessity of any authorisation or sanction by any court or other authority, and may also, for such purpose, dispose of any such assets so held by it or pledged in its favour and apply the proceeds from such disposal directly to satisfy its claims..

Prohibited activities.
Amended by:
XXIX.1968.3;
XIX.1974.6;
XX. 1981.4;
XI.1988.6;
XXVI.1994.10.
Substituted by:
XVII. 2002.75.

16. The Bank may not -

- (a) purchase, acquire or lease immovable property except in accordance with the provisions of this Act 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;
- (b) accept for discount, or as security for an advance made by the Bank, any instruments signed by members of the Board or by the Bank's officials or other employees;
- (c) pay interest except, at its discretion, on deposits maintained with the Bank in accordance with articles 26 or 33(1), or on special accounts maintained with the approval of the Board;
- (d) open accounts and accept and place deposits otherwise than as provided in article 15(1)(a) and (b); and
- (e) grant 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.

Added by:
XVII. 2002.77.

PART IIA

MONETARY POLICY

Monetary Policy Advisory Council.
Added by:
XVII. 2002.77.

17. (1) There shall be a council of the Bank, to be known as the Monetary Policy Advisory Council, which shall have responsibility to advise the Governor on matters relating to monetary policy.

(2) The Council shall consist of -

- (i) the Governor, Deputy Governor and the other three Directors of the Bank, and
- (ii) three members appointed by the Governor, after consultation with the Board, from among the senior officials within the Bank, or from among suitably qualified individuals from outside the Bank, being in each case persons who the Governor is satisfied have knowledge or experience which is likely to be relevant to the Council's functions.

17A. (1) The sole authority and responsibility within the Bank to take decisions and to perform any function or duty or to exercise any power relating to monetary policy shall vest in the Governor.

Governor to take decisions on monetary policy.
Added by:
XVII. 2002.77.

(2) The Governor shall keep the Council informed of, and may discuss with the Council, the discharge of the functions, duties and powers vested in him under this article.

(3) Whenever the Governor is unable, by reason of absence, ill-health or any other cause to discharge the functions, duties and powers referred to in this article, or where the office of the Governor is vacant, the authority and responsibility vested in the Governor under sub-article (1) shall, during such inability or vacancy, vest in the Deputy Governor.

(4) Neither the Bank nor any member of the Council, including the Governor, shall when exercising the functions, duties and powers under this article, seek or take instructions from the Government or from any other body.

(5) The Governor, after consulting the Council, may give directions and guidance on the measures to be adopted in the implementation by the Bank of the monetary policy functions established in accordance with this Act.

17B. The Governor may be requested by the House of Representatives to report on the conduct by the Bank of its monetary policy functions before a committee of the House of Representatives appointed for this purpose and to provide such committee with any information deemed necessary:

Governor to report to the House of Representatives.
Added by:
XVII. 2002.77.

Provided that the Governor may not be so requested more often than once every six months.

17C. (1) Four members of the Council shall form a quorum at any meeting, provided that the Governor is present for all the meetings, otherwise the Council shall regulate its own proceedings.

Proceedings.
Added by:
XVII. 2002.77.

(2) Subject to the provisions of article 17D, the members of the Council shall be bound by the duty of professional secrecy in matters relating to monetary policy.

17D. (1) As soon as practicable after each meeting of the Monetary Policy Advisory Council, the Bank shall publish a statement of the decision on monetary policy taken by the Governor.

Publication of decisions and interest rates.
Added by:
XVII. 2002.77.

(2) The Bank shall also make public at all times its official interest rates.

(3) The publication of decisions and of interest rates under this article shall be in such manner as the Bank deems fit.

PART III

FINANCIAL PROVISIONS

Capital and
Reserves.
Amended by:
XIII. 1983.5.
Substituted by:
XXVI. 1994.11.
Amended by:
XVII. 2002.78.

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.

(2) The Bank shall maintain a General Reserve Fund and a Special Reserve Fund which, at the end of each financial year of the Bank, shall be of not less than five million liri and two million liri respectively.

(3) The General Reserve Fund shall be available for any purpose as may be determined by the Board and the Special Reserve Fund shall be available for the purpose specified in article 24(2).

External reserves.
Substituted by:
XIX.1974.7;
XX.1981.5.
Amended by:
XXXVIII. 1986.3;
XI.1988.7;
XXVI. 1994.12.
Substituted by:
XVII. 2002.79.

19. (1) In managing and maintaining the external reserves under the provisions of article 15(2), the Bank shall maintain a reserve of external assets which shall at all times be determined at no less than sixty per centum of the value of the Bank's liabilities.

(2) For the purposes of this article, the term "Bank's liabilities" shall mean:

- (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 article 15(1)(d).

Investment
Committee.
Added by:
XX. 1981.6.

20. *Repealed by article 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.

Audit.
Amended by:
XVI. 1997.7.
XVII. 2002.80.

22. The accounts of the Bank shall be audited by independent external auditors appointed annually by the Board with the approval of the Minister.

Annual accounts.
Amended by:
XX. 1981.7;
XI. 1988.9;
XVII. 2002.81.

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 -

- (a) a copy of the annual accounts certified by the auditors,
- (b) a statement of the Bank's investments; and

(c) a report on its operations during that year,
and shall publish the report referred to in paragraph (c).

(2) The Minister shall, as soon as may be and, in respect of the requirement of paragraph (a) of this sub-article, 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, of the statement 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.

24. (1) Subject to the following provisions of this article, 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.

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;

XVII. 2002.82.

(2) The profits and losses which are attributable to any revaluation of the Bank's net external assets or liabilities made as a result of any adjustment of the external value of the Maltese lira in terms of article 40 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 the Special Reserve Fund established under article 18(2). Without prejudice to the aforesaid provisions article 18(2), the balance in such Fund shall be dealt with as determined by the Board.

(3) *Deleted by Act XVII. 2002.82.*

(4) After such allocations as may be determined by the Bank under the provisions of subarticle (1) have been made, the remainder of the net profits established as aforesaid shall be paid to the Government.

PART IIIA

Added by:

XVII. 2002.83.

COLLECTION OF INFORMATION

24A. (1) Without prejudice to the provisions of article 38A(2), the Bank may require a reporting agent as defined in subarticle (3) to provide the Bank with such information as the Bank may consider necessary to carry out its functions under this Act, and the Bank may enquire into and ask for clarifications of any information so provided.

Collection of information.

Added by:

XVII. 2002.83.

(2) It shall be the duty of every reporting agent required to provide the Bank with information as specified in subarticle (1), to comply with such requirement.

(3) For the purpose of this article and of the following article, a "reporting agent" may include:

- Cap. 371. (a) a credit institution licensed under the Banking Act;
- Cap. 376. (b) a financial institution licensed under the Financial Institutions Act;
- Cap. 370. (c) a person licensed under the Investment Services Act;
- Cap. 403. (d) a person licensed to conduct business of insurance under the Insurance Business Act or a person registered or enrolled to conduct insurance intermediaries' activities under the Insurance Brokers and other Intermediaries Act;
- Cap. 404. (e) a person who has issued a debt security, and is not a credit institution licensed under the Banking Act or a person licensed under the Investment Services Act;
- Cap. 371. (f) a person who has acted as an agent in connection with arranging or managing the issue of a debt security, and is not a credit institution licensed under the Banking Act or a person licensed under the Investment Services Act;
- Cap. 370. (g) a person who holds external assets and liabilities or carries out cross-border transactions which the Bank determines relevant to compile balance of payments statistics or to establish the balance sheet of the stock of external financial assets and liabilities for Malta, otherwise referred to as the international investment position; or
- (h) any other person who the Bank determines, after consultation with such person, is in possession of information considered relevant to carry out its tasks under this Act.

(4) Except as provided for under Part VI of this Act, information collected under the provisions of this article shall be subject to the duty of professional secrecy.

Collection of statistical information.
Added by:
XVII. 2002.83.

24B. (1) The Bank may issue directives providing for the definition and imposition of its statistical reporting requirements, establishing the standards for transmission and accuracy of statistical information and specifying the conditions under which the right to verify or to carry out the compulsory collection of statistical information may be exercised under the provisions of subarticle (2).

(2) The Bank shall have the right to verify the accuracy and quality of the statistical information submitted under subarticle (1), and to carry out its compulsory collection. The right to verify statistical information or to carry out its compulsory collection shall comprise the right to:

- (a) require submission of documents;
- (b) examine the books and records of the reporting agent;
- (c) take copies or extracts from such books and records;
and
- (d) obtain written or oral explanations.

Any reference to documents, books or records under this article includes a reference to the electronic form of any such documents, books or records.

(3) When it deems it necessary in the carrying out of its functions under this Act, the Bank shall prepare and publish statements, consolidating and, or, aggregating statistical information so furnished under this article and, where necessary, under article 38A(1).

PART IV

RELATIONS WITH GOVERNMENT

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

Adviser to
Government.
Amended by:
XVII. 2002.84.

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

Banker to
Government.
Amended by:
XVII. 2002.85.

(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.

27. (1) The Bank shall not grant overdrafts or any other type of credit facility to the Government or to any public undertaking, public authority or Government-owned corporation, nor shall the Bank directly purchase their debt instruments.

Prohibition of
public sector
financing.
Substituted by:
XXVI.1994.15;
XVII. 2002.86.

(2) The Government-controlled credit institution shall be given the same treatment as other credit institutions with regard to the supply of reserves.

28. The Bank may act generally as agent for the Government and may be entrusted with the issue and management of Treasury Bills and Government loans publicly issued in Malta -

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. Deleted by Act XVII. 2002.87.

Issue and
management of
Government loans.

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

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

Information to
 Minister.

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

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

32. *Deleted by Act XVII. 2002.87.*

PART V

RELATIONS WITH CREDIT AND FINANCIAL INSTITUTIONS

Amended by:
 XXVI. 1994.17.
Substituted by:
 XVII. 2002.88.

Banker to credit
 and financial
 institutions.
Substituted by:
 XXIX. 1968.4.
Amended by:
 XXVI. 1994.18;
 XVII. 2002.89.

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

(2) The Bank may also open accounts and place deposits with credit institutions.

Other credit
 institutions as
 agents.
Amended by:
 XVII. 2002.90.

34. The Bank may in exceptional circumstances appoint one or more other credit institutions 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 credit institutions.

**Act XI of 1988: Transitory Provision*

(2) Notwithstanding the repeal of article 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 sub-article (2) of this article 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 article.

(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 sub-article (2) of this article.

(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 sub-article (5) of this article, 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.

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

Co-operation with other credit institutions.
Substituted by:
XXVI. 1994.19.
Amended by:
XVII. 2002.91.

36. (1) The Bank shall oversee and regulate the operation of, and the participation in, domestic payment systems as well as any form of cash or security transactions, whether domestic or cross-border, that may be involved therein, and may itself establish and operate such a payment system.

Payment systems.
Substituted by:
XVII. 2002.92.

(2) No person shall organise, establish, operate or participate in a domestic payment system unless such system is approved and authorised by the Bank.

(3) Any person who contravenes or fails to comply with the provisions of subarticle (2) shall be guilty of an offence and shall be liable on conviction to a fine (*multa*) not exceeding twenty thousand liri or to imprisonment not exceeding two years, or to both such fine and imprisonment.

(4) No proceedings for an offence under subarticle (3) shall be commenced without the consent of the Attorney General.

(5) The Bank may issue directives in respect of:

- (a) any or all of the objects mentioned in subarticle (1) including, without prejudice to the generality of the aforesaid, the regulation of clearing houses, settlement agents and participants in payment systems as well as the legal enforceability of payments made through such systems and the collateral given in connection with the operation of such a payment system;
- (b) cross-border credit transfer services provided by credit and financial institutions or by any person that by way of business executes cross-border credit transfers; and
- (c) electronic payment services, including, but not limited to, the provision of debit and credit card, and electronic money, services.

(6) Unless otherwise provided in the directives made in virtue of subarticle (5), payments, set-off or netting made through or within a payment system including any collateral given by a participant in connection with any such system, shall, notwithstanding any other law relating to bankruptcy or insolvency or to the regulation and enforcement of collateral or otherwise regulating the validity of such payments, set-off or netting and the giving of collateral, be final and binding on all parties thereto and may not be attacked or impugned in any court of law. Any payment order, set-off or netting made through or within a payment system by a participant and any collateral given in connection with such a system shall, notwithstanding any other law as aforesaid, not be the subject of an attachment or seizure order, nor of a warrant of prohibitory injunction issued at the request of the creditors of the participant.

(7) In this article and in any directive issued hereunder, unless the context otherwise requires:

"participant" means any person, including the Bank, who participates in a payment system and may include an indirect participant approved by the Bank;

"payment system" or "system" means a formal arrangement between three or more participants with common rules and standardised arrangements, for the execution of transfer orders between participants, including a clearing house, or for the settlement of payments relating to securities, which is approved by the Bank, and may include a payment, clearing, settlement, netting and, or, similar system. The Bank may also, on a case-by-case basis, designate as a payment system such a formal arrangement between two participants where the Bank considers that this is warranted on grounds of systemic risk.

Appeals.
Added by:
XVII. 2002.92.

36A. Any person who:

- (a) is aggrieved by decisions taken by the Bank under article 36(2) or under any directives issued under article 36(5)(a);
- (b) is a party to any disputes in respect of rights and obligations arising under any directives issued under article 36(5)(b) and (c); or
- (c) has had an administrative penalty imposed upon him pursuant to subarticle of article 52A(1),

Cap. 330.

may appeal to the Financial Services Tribunal established under the Malta Financial Services Authority Act within such period and under such conditions as established under that Act.

Deposit of credit
institution with
Bank.
Amended by:
LVIII. 1974.68;
L.N.148 of 1975;
XIII. 1983.5;
XXVI. 1994.20;
XXIV.1995.362;
IX. 1997.4.
Substituted by:
XVII. 2002.92.

37. (1) The Bank may require credit institutions carrying on the business of banking in Malta to maintain reserve deposits with the Bank on such terms and conditions as the Bank may prescribe from time to time by directives in relation to its monetary policy functions.

(2) No credit institution shall be required to maintain a larger minimum proportion of reserve deposits than any other credit institution.

(3) In order to ensure observance of any directive issued under subarticle (1) and in carrying out the compulsory collection of information, the Bank shall have the powers granted to it under, and shall act in accordance with, the provisions of article 52A.

(4) For the purpose of this article, the term "credit institution" shall include electronic money institutions as defined in the Banking Act.

Cap. 371.

38. Notwithstanding anything else contained in any other law, credit and financial institutions may determine the rate of interest payable on deposits held by credit institutions, and the rate of interest that they may charge on loans, advances and any other credit facility as well as in the issue of debentures or debenture stock or other instruments creating or acknowledging indebtedness.

Interest rates of credit and financial institutions.

Amended by:
LVIII. 1974.68;
L.N. 148 of 1975;
XIII. 1983.5;
XXVI. 1994.21;
XXIV. 1995.362.
Substituted by:
XVII. 2002.92.

PART VI

Added by:
XVII. 2002.92.

RELATIONS WITH THE COMPETENT AUTHORITY

38A. (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.

Information, inspection and reporting by the Competent Authority.

Added by:
XXVI.1994.22.
Substituted by:
XVII. 2002.92.

(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.

38B. (1) 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 any law.

Information to Competent Authority.

Added by:
XXVI. 1994.22.
Substituted by:
XVII. 2002.92.

(2) The Bank shall discuss with the Competent Authority matters of mutual interest resulting from information collected under article 24A.

38C. Any information exchanged between the Bank and the Competent Authority shall be subject to the duty of professional secrecy.

Information by banks.

Added by:
XXVI. 1994.22.
Substituted by:
XVII. 2002.92.

PART VII

CURRENCY

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

Currency of Malta.

Substituted by:
XX.1971.2.

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

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

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

External value of the Maltese lira.

Amended by:

X.1968.3.

Substituted by:

XIX.1974.10;

XX.1981.10.

Amended by:

XIII. 1983.5;

XVII. 2002.93.

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;

XVII. 2002.94.

Notes.

Amended by:

XIX.1974.12;

XI. 1988.12;

XXVI. 1994.26;

XVII. 2002.95.

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. Notice of such determination, adjustment or suspension shall be published in the Gazette at the earliest opportunity.

41. (1) Subject to the provision of any law relating to the control of exchange and to subarticle (2), the Bank shall at its principal office in Malta issue and redeem Malta currency at its discretion against external assets in such amounts and at such rate of exchange as the Bank shall determine.

(2) The rates of exchange quoted by the Bank for spot transactions in terms of sub-article (1) shall not differ from the external value of the Maltese lira in terms of any other currency by a margin in excess of that which may be 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.

(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 sub-article (3) of this article, 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 sub-article (5) of this article 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 subarticle (4), any notes so called in but not presented for redemption shall cease to be included in the currency liabilities of the Bank and the value of such notes, after deducting therefrom the value of any notes which are subsequently redeemed, shall be apportioned to the profits of the Bank over the remaining period until the expiration of the ten-year period specified under the provisions of subarticle (4).

(7) Any note which has been tampered with or has ceased to be legal tender or is counterfeit may be called in, cut, 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 note as aforesaid from the possession of any person even though such person be not charged with, or suspected of having committed a crime.

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.

Coin.
Amended by:
XX.1971.3;
XI. 1988.13;
XXVI. 1994.27;
XVII. 2002.96.

(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 sub-article (4) of this article, 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 sub-articles (5) and (9) of this article 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 subarticle (6), any coins so called in but not presented for redemption shall cease to be included in the coin liabilities of the Bank and the value of such coins, after deducting therefrom the value of any coins which are subsequently redeemed, shall be apportioned to the profits of the Bank over the remaining period until the expiration of the two-year period specified under the provisions of subarticle (6).

(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.

Definition of
currency note or
coin.
Substituted by:
XVII. 2002.97.

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

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

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:

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.

Possession of
forged notes.

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.

Making or having
in possession paper
or implements for
forgery.
Amended by:
XVII. 2002.98.

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

- (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, or produces in electronic or digital form, 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, or any other electronic or digital storage device upon which any such words, letters, figures, marks, lines, or devices, have been engraved, produced or stored in electronic or digital form, 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.

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.

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

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:

Coinage offences.
Amended by:
XXVI. 1994.30.

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 article, "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.

49A. Credit institutions, including financial institutions licensed under the Financial Institutions Act to exchange notes and coins of different currencies as a business activity, shall be obliged to withdraw from circulation all currency notes and coins received by these institutions which they know or have sufficient reason to believe to be counterfeit, and shall immediately deliver them over to the Bank.

Obligations of credit and financial institutions.
Added by:
XVII. 2002.99.
Cap. 376.

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

Reproduction of notes and coins.
Added by:
XXVI. 1994.31.
Amended by:
XVII. 2002.99.

Amended by:
XXVI. 1994.32.

PART VIII

GENERAL

Preliminary
expenses.

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

Transfer of assets
from the Currency
Board.

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

Amended by:
XIII. 1983.5.

Surplus transferred
assets.

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

Amended by:
XIII. 1983.5.

Administrative
penalties.

Added by:
XVII. 2002.100.

52A. (1) The Minister may by regulations provide for administrative penalties which may be imposed and recovered by the Bank without recourse to a court hearing:

Provided that an administrative penalty may not be greater than five thousand Maltese liri.

(2) Without prejudice to the generality of the provisions of subarticle (1), the Minister may by such regulations prescribe administrative penalties for the following breaches:

- (a) where a reporting agent contravenes or fails to comply with a reporting requirement under the provisions of article 24A or article 24B or fails to comply with a requirement contained in any directive issued under article 24B(1); and
- (b) where a participant in a payment system contravenes or fails to comply with a requirement contained in any directive issued under article 36.

(3) The Minister may, by regulations, further provide for administrative penalties which may be imposed and recovered by the Bank without recourse to a court hearing:

- (a) upon a credit or financial institution, as the case may be, where the institution -
 - (i) contravenes or fails to comply with a reserve deposit requirement as may be contained in any directive issued under the provisions of article 37; and
 - (ii) contravenes or fails to comply with the provisions of article 49A;
- (b) upon any body corporate where the offences referred to in articles 45 to 49 are committed for their benefit by any person, acting either individually or as part of an organ of the body corporate, who has a senior position within the body corporate, on the basis of -
 - (i) a power of representation of the body corporate, or
 - (ii) an authority to take decisions on behalf of the body corporate, or

(iii) an authority to exercise control within the legal person,

as well as for aiding or acting as accessory in the commission of such offences or the attempted commission of such offences; and

(c) upon any body corporate where the lack of supervision or control by the person referred to in paragraph (b) has rendered possible the commission of an offence referred to in the same paragraph for the benefit of that body corporate by a person under its authority.

52B. (1) Where by virtue of regulations made under article 52A, the Bank imposes an administrative penalty, it shall so notify the person on whom the penalty is being imposed by means of a notice in writing.

Recovery of administrative penalties.
Added by:
XVII. 2002.100.

(2) Where an administrative penalty is imposed on a reporting agent in respect of a breach of the provisions referred to in article 52A(2)(a), such penalty shall be without prejudice to the obligation of the undertaking to meet the costs of the verification and, or, the compulsory collection procedure, as the case may be.

(3) Where a notice imposing an administrative penalty is served on any person and:

- (a) such person does not appeal to the Financial Services Tribunal (hereinafter in this article "the Tribunal") in accordance with the provisions of article 36A and fails to pay to the Bank the administrative penalty within thirty days from the date of service of such notice; or
- (b) such person appeals to the Tribunal and fails to pay to the Bank the administrative penalty as confirmed or reduced by the Tribunal within fifteen days from the date of the decision of the Tribunal,

then, in each case, the Bank shall be entitled to recover the sum due as a civil debt and the provisions of subarticle (4) shall apply.

(4) A notice as is referred to in subarticle (3) or, as the case may be, the decision of the Tribunal shall, upon the service of a copy thereof by means of a judicial act on the person indicated in the notice or the decision of the Tribunal, constitute an executive title for all effects and purposes of Title VII of Part I of Book Second of the Code of Organisation and Civil Procedure.

Cap. 12.

53. The Board may make bye-laws not inconsistent with this Act, for the good order and management of the Bank.

Bye-laws.
Substituted by:
XVII. 2002.100.

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.

Maintenance of
orderly conditions
in the capital
market.

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

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

*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.