

BANKING ACT 1971

Act No. 31 of 1971

Proclaimed by [\[Proclamation No. 10 of 1971\]](#) w.e.f. 16th August 1971

Repealed by [\[Act No. 41 of 1988\]](#)

I assent

29th June, 1971

A.L. WILLIAMS,
Governor- General

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An Act

To regulate the business of banking and matters connected therewith

ENACTED by the Parliament of Mauritius, as follows-

PART I-GENERAL

1. Short title

This Act may be cited as the **Banking Act, 1971**.

2. Interpretation

In this Act, unless the context otherwise requires-

“affiliate ” means, in relation to a bank, any company which, through the holding of voting shares, is directly or indirectly controlled by the bank;

“assigned capital ” means the capital required to be maintained under section 14;

“bank” means any company licensed to transact banking business under this Act;

“banking business” means principally the business of accepting deposits and making loans or extending credit;

“Central Bank” means the Bank of Mauritius established under the Bank of Mauritius Ordinance 1966 (Ord. No. 43 of 1966)

“company” means a company incorporated or registered under the Companies Ordinance; (Cap. 397)

“demand liabilities” means the deposits in a bank which must be repaid on demand;

“director” includes any person, by whatever name he may be referred to, who performs, or is empowered to perform, substantially the same functions, in relation to the direction of a bank, as those performed by a director of a company registered under the Companies Ordinance; (Cap. 397)

“licence” means a licence granted under section 3;

“Mauritius” includes all the islands under the jurisdiction of the State of Mauritius;

“Minister” means the Minister to whom responsibility for the subject of Finance is assigned;

“reserve account ” means the account required to be maintained under section 15

“time liabilities” means all deposits, including savings deposits, which are not payable on demand;

“unsecured advances or unsecured credit facilities” means-

- (a) advances or credit facilities made without security; or
- (b) in relation to any advance or credit facility made with security
 - (i) any part thereof which at any time exceeds the market value of the assets constituting that security; or
 - (ii) where the Central Bank is satisfied that there is no established market value, the unsecured value as determined on the basis of a valuation approved by the Central Bank.

PART II-LICENSING OF BANKS

3. Grant of licences

(1) Subject to the provisions of this Act, the Central Bank may –

- (a) on application being made in accordance with subsection (2); and
- (b) on being satisfied as to -
 - (i) the technical knowledge, experience, financial condition and history of the applicant;
 - (ii) the adequacy of its capital structure;
 - (iii) the character of its business and its management;
 - (iv) the convenience and needs of the community to be served,

grant to the applicant, subject to such conditions as it may deem fit to impose, a licence to transact banking business.

(2) Every application made under this section shall –

- (a) be accompanied by--
 - (i) an authenticated copy, or if the original is not in the English language, a certified translation, of the articles of association or incorporation of the applicant and of its by-laws or the equivalent thereof;
 - (ii) a copy, or, if the original is not in the English language, a certified translation, of its balance sheet, if any, as of a date within ninety days preceding the date of the application; and
- (b) be supplemented by such information as the Central Bank may, in any particular case, require.
- (3) A decision upon any application under this section shall be made not later than ninety days after the receipt of the application by the Central Bank and written notice thereof shall be given to the applicant.
- (4) Any applicant aggrieved by a decision of the Central Bank to refuse to grant a licence may, not later than thirty days after the receipt of a notice under subsection (3), appeal to the Minister.
- (5) Any licence granted to a bank under this section shall authorise the bank to transact banking business at its principal place of business and in such offices or branches as may be approved by the Central Bank.

4. Saving as to banks licensed under the Banking Ordinance, 1958. Ord. No. 1 of 1958

Notwithstanding the provisions of section 3, any bank which, immediately before the commencement of this Act, was licensed under the provisions of the Banking Ordinance, 1958 shall, on application to the Central Bank, be granted a licence and shall, within a period of three months from the commencement of this Act or within such longer period as the Central Bank may, in any particular case, determine, comply with the provisions of this Act.

5. Display of licences

- (1) Every bank shall at all times display, in a conspicuous place in the public part of its principal place of business, the licence granted to it under this Act and copies thereof shall be similarly displayed in each of the offices or branches of the bank, if any.
- (2) Any bank failing to comply with the provisions of subsection (1) shall commit an offence and shall, on conviction, be liable to a fine of five hundred rupees for each day on which the offence occurs or continues.

6. Power to vary conditions of licences

- (1) The Central Bank may, by written notice to the bank, vary or revoke, at any time, any of the conditions of its licence or impose such additional conditions thereto as it may deem necessary.
- (2) Where the Central Bank proposes, in relation to any bank, to vary, revoke or impose any conditions in pursuance of subsection (1), it shall, before so doing, give notice thereof to the bank giving an opportunity for representations to be made.
- (3) Any bank aggrieved by a decision of the Central Bank under this section may, not later than ten days after the communication of the decision of the Central Bank to vary, revoke or impose any conditions, appeal to the Minister.

7. Revocation of licences

- (1) The Central Bank may, by notice published in the Gazette and in at least three daily newspapers in Mauritius, revoke a licence--
 - (a) where the licensee fails, within a period of twelve months from the grant of the licence, to engage in banking business;
 - (b) where the licensee ceases to transact banking business or goes into liquidation or is wound up or otherwise dissolved;

- (c) where it appears to the Central Bank that the licensee is carrying on business in a manner detrimental to the interests of its depositors or has insufficient assets to cover its liabilities to the public or is contravening the provisions of this Act.
- (2) The Central Bank shall, before revoking any licence, give to the licensee notice of its intention so to do, specifying a date, being not less than thirty days after the date of the notice, upon which the revocation shall take effect, giving an opportunity for representations to be made.
- (3) The Central Bank shall, where representations are made under subsection (2), give written notice of its decision to the licensee.
- (4) Where any bank makes representations under subsection (2) and is aggrieved by a decision of the Central Bank to revoke the licence, the bank may, not later than ten days after the receipt of the notice specified in subsection (3) appeal to the Minister.

8. Application of Licences Ordinance. Cap. 159

Subject to the provisions of section 9(5), the grant of a licence to a bank shall not exempt the bank from payment of the appropriate licence duty under the provisions of the Licences Ordinance.

9. Licensing of Mauritius Co-operative Central Bank. Ord. No. 51 of 1945

- (1) Notwithstanding the provisions of this Act but subject to the provisions of the Co-operative Societies Ordinance, 1945, the Central bank may grant a licence to the Mauritius Co-operative Central bank Ltd. to transact banking business on such conditions and limitations as the Central Bank may, from time to time, determine.
- (2) A licence granted under this section may be revoked at any time by the Central Bank.

- (3) The Central Bank may exempt the Mauritius Co-operative Central Bank Ltd. from compliance with such provisions of this Act and of the Bank of Mauritius Ordinance, 1966, as the Central Bank may, from time to time, determine. (Ord. No. 43 of 1966)
- (4) Where a licence has been granted under this section, the provisions of sections 52 and 53 of the Stamps Ordinance shall apply to the Mauritius Co-operative Central Bank Ltd. and to its general manager as they apply to any bank or bank manager respectively.
- (5) The Mauritius Co-operative Central Bank Ltd shall, where a licence has been granted under this section, be exempted from the payment of the licence duty payable by a bank under the Licences Ordinance.

10. Restriction as to mergers, consolidation, etc

- (1) No bank incorporated in Mauritius shall, except with the approval of the Central Bank,--
 - (a) be merged or consolidated with any other bank or other institution;
 - (b) cause or permit any interest in any class of voting capital, which would entitle the holder thereof to twenty per centum or more of the voting strength of that class, to be acquired, directly or indirectly, by any person;
 - (c) make any alteration to the instrument under which it is incorporated.
- (2) Any bank aggrieved by the decision of the Central Bank not to approve a merger or consolidation or a transfer of interest or alteration of the instrument of incorporation under this section may, not later than ten days after the communication of the decision of the Central Bank not to approve the merger or consolidation, appeal to the Minister.

11. Decision of Minister on appeal under Part II

The decision of the Minister on appeal in pursuance of this Part shall be final and shall not be called in question in any proceedings whatsoever.

12. Offences connected with licensing

- (1) No banking business shall be transacted except by a bank.
- (2) No bank shall open or keep open a new place of business or close or keep closed an existing place of business or change the location thereof without the approval of the Central Bank
- (3) No person, except a bank, shall without the written authorisation of the Central Bank,-
 - (a) use, in any language, the word “bank” or any of its derivatives as part of the name under which he carries on his activities;
 - (b) use, as part of the name, description or title under which he is carrying on his activities, any word or term likely to indicate the nature of his activities to be those of a bank;
 - (c) make any representation or use any word or term in any bill head, letter, notice, advertisement or in any manner whatsoever that he is carrying on the activities of a bank.
- (4) Any person or any bank, as the case may be, acting in breach of the provisions of this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding one thousand rupees for each day on which the offence occurs or continues.

13. Examination in cases of unlicensed banking

Where the Central Bank reasonably suspects that any person is transacting banking business without a licence, it may, with the approval of the Minister, examine the books, accounts and records of that person in order to ascertain whether or not that person has contravened, or is contravening, the provisions of this Part and any refusal to submit the books, accounts and records shall, in relation to that person, be deemed, unless he proves the contrary, to be the transaction of banking business.

**PART III-CAPITAL STRUCTURE, RESERVE ACCOUNT AND OTHER FINANCIAL
PROVISIONS**

14. Minimum paid up capital

- (1) Subject to the provisions of this Act, no bank shall be granted or hold a licence unless—
 - (a) in the case of a bank incorporated in Mauritius, its paid up capital, together with the reserve account, is not less than five million rupees;
 - (b) in the case of a bank incorporated abroad,—
 - I
 - (i) its paid up capital is not less than the equivalent of five million rupees, and
 - (ii) it maintains in Mauritius assigned capital of an amount the quantum, computation and form of which shall be determined, from time to time, by the Central Bank and notified to the bank,
- (2) For the purposes of subsection (1) (b)—
 - (a) assigned capital shall consist of funds transferred from abroad and accretions to net worth, as determined by the Central bank, resulting from operations of the bank;
 - (b) the amount of the assigned capital, as determined by the Central Bank, shall in no case, when added to the reserve account of the bank, be less than one million rupees or five per centum of the average of its demand and time liabilities payable in Mauritius for the immediately preceding calendar year, whichever is the higher.

15. Maintenance of reserve account

Every bank shall maintain a reserve account and shall, before any profit is transferred or any dividend is declared, transfer to such account out of the net profits of each year, after due provision has been made for income tax, a sum equal to not less than fifteen per centum of the net profits until the balance in the account is equal to—

- (a) in the case of a bank incorporated in Mauritius, the amount of its paid up capital;
- (b) in the case of a bank incorporated abroad, the amount of the assigned capital.

16. Value of assets

Every bank shall maintain, in Mauritius, assets the value of which shall be not less than an amount representing such ratio, in respect of its average demand and time liabilities in Mauritius, as may be determined, from time to time, by the Central Bank and notified to the bank.

17. Maintenance of liquid assets

- (1) Every bank shall maintain, in Mauritius, liquid assets the amount of which shall, from time to time, be determined by the Central Bank, after consultation with the Minister, in accordance with the provisions of subsection (2).
- (2)
 - (a) The amount of liquid assets required to be maintained under this section shall, in relation to each bank, be expressed as a percentage not exceeding thirty per centum of the demand and time liabilities and the Central Bank may, if it deems it necessary for the purpose, specify a period during which surpluses and deficiencies in liquid assets may be averaged;
 - (b) Demand and time liabilities shall be deemed not to include any advances granted to a bank by any of its offices or branches situated abroad or any other bank in Mauritius.
- (3) Where, in relation to any bank, the amount of liquid assets required to be maintained under this section is varied, the bank shall be allowed such reasonable time, being not less than thirty days from the date of the variation within which to comply with the provisions of subsection (1).

- (4) For the purposes of this section, "liquid assets" shall consist of transferable assets, free from any charge or lien whatsoever, of the following classes in such aggregate figure as the Central Bank may, from time to time, determine, that is to say –
- (a) notes and coins which are legal tender in Mauritius, including notes and coins held as minimum cash balances under section 22 of the Bank of Mauritius Ordinance, 1966;(Ord. No 43 of 1966)
 - (b) balances at the Central Bank including, within the limits fixed by the Central Bank for the purpose of this section, balances held as minimum cash balances under section 22 of the bank of Mauritius Ordinance, 1966;(Ord. No. 43 of 1966)
 - (c) net credit or debit balances at any bank in Mauritius and money at call in Mauritius;
 - (d) treasury bills and other securities issued by the Government of Mauritius and maturing within five years;
 - (e) bills of exchange and promissory notes eligible for rediscount by the Central Bank;
 - (f) net credit or debit balances at any bank including its branches outside Mauritius in such monetary areas as the Central Bank may, for the purpose of this section, approve:

Provided that the Central Bank may exclude, for the purposes of this paragraph, the balances or any portion thereof in respect of a bank incorporated abroad;

- (g) money at call in any monetary area approved by the Central Bank under paragraph (f) and treasury bills issued by the Government of a State in the monetary area so approved and maturing within one hundred and eighty-four days.

18. Offences connected with failure to maintain minimum holdings

- (1) Every bank shall furnish, within a reasonable time, and in any event not later than three weeks from the date of a request to that effect by the Central Bank, such

information as may be required by the Central Bank to indicate whether the bank is complying with the requirements of section 17.

(2) No bank shall -

(a) allow its holding of liquid assets to be less than the amount which is, from time to time, determined by the Central Bank under section 17;

(b) grant or permit, for the period during which liquid assets are less than the amount determined by the Central Bank under section 17, increases in outstanding loans, overdrafts or investments.

(3) Any bank acting in breach of any of the provisions of subsection (1) or subsection (2) shall commit an offence and shall, on conviction, be liable to a fine not exceeding one thousand rupees for each day on which the offence occurs or continues and, in addition, the Bank shall, in relation to an offence in respect of subsection (2), be liable to pay to the Central Bank a charge, determined in pursuance of subsection (4).

(5) The charge payable under subsection (3) shall be an amount not exceeding an annual rate of twice the rate fixed by the Central Bank in respect of minimum advances under the Bank of Mauritius Ordinance, 1966, calculated on –

(a) the amount by which the minimum holding of liquid assets is deficient, and

(b) the period over which the minimum holding of liquid assets remains deficient.

(5) Any charge imposed under subsection (3) may be recovered by the Central Bank as if it were a civil debt.

PART IV—LIMITATIONS ON OPERATIONS

19. Restriction on payment of dividends

(1) No bank shall declare, credit or pay any dividend or make any other transfer from profits until-

(a) all its capitalised expenditure, including preliminary expenses and those relating to its incorporation, share selling commission, brokerage, losses incurred and any other item of expenditure not represented by tangible assets have been completely written off;

(b) any impairment in its capital has been made good; and

(c) adequate provision, to the satisfaction of the Central Bank, has been made in respect of bad or doubtful debts.

(2) For the purposes of this section, an issue of bonus shares out of profits shall be deemed to be a payment of dividends.

20. Limitation on grant of advances or credit facilities

No bank shall:-

(a) grant any advance or credit against the security of its own shares;

(b) grant to, or permit to be outstanding from, its officers or employees unsecured advances or unsecured credit facilities which, in the aggregate, in relation to any one officer or employee, exceed the annual emoluments of the officer or employee.

21. Limitations on investments in trade, industrial undertakings, immovable property etc.

(1) No bank shall, except in the course of the satisfaction of debts due to it –

- (a) engage, whether on its own account or on the basis of a commission, in the wholesale or retail trade, including the import or export trade, except as may be approved by the Central Bank;
- (b) acquire or hold any interest in the capital of any financial, commercial, agricultural, industrial or other undertaking:

Provided that this paragraph shall not apply to –

- (i) a purchase, for the account of a customer and without recourse, of shares or stock;
 - (ii) a shareholding, with the approval of the Central Bank, in any undertaking the object of which is to insure deposits or promote the development of a money or securities market in Mauritius;
 - (iii) a shareholding in such undertakings the object of which is to promote the economic development of Mauritius, as may be approved by the Minister;
 - (iv) a shareholding in any other undertaking up to an amount which, in the aggregate, does not exceed thirty per centum of the paid up or assigned capital and reserve account, the shareholding being valued at its fair market value or, where it is not practicable to determine the latter, at a valuation approved by the Central Bank;
- (c) purchase or acquire immovable property or any right therein except as may be reasonably necessary for the purpose of conducting its operations, including provision for foreseeable expansion, or of housing or providing amenities for its staff:

Provided that this paragraph shall not prevent a bank from letting part of any immovable property used for the purpose of conducting its operations.

- (2) Where a bank, in the course of the satisfaction of debts due to it, acquires any interest in the capital of any undertaking or in any other property, movable or

immovable, by the default of the debtor, it shall dispose of the interest as soon as is reasonably practicable.

22. Liquidation of prohibited transactions

Any bank which, before the commencement of this Act, entered into any transaction incompatible with sections 20 and 21 shall –

- (a) not later than three months from the date of commencement of this Act, submit to the Central Bank a detailed statement of all such transactions, and
- (b) not later than one year from the said date or within such longer period as the Central Bank may, in any particular case specify, liquidate all such transactions and comply with the provisions of sections 20 and 21.

23. Balance sheet and profit and loss account

- (1) Every bank incorporated in Mauritius, in relation to all business transacted by it, and every bank incorporated abroad, in relation to all business transacted through its offices and branches in Mauritius, shall, not later than three months after the end of its financial year prepare in respect of that year a balance sheet and a profit and loss account as of the last working day of that year in such form as the Central Bank may, from time to time, approve.
- (2) The balance sheet and profit and loss account referred to in subsection (1) shall be jointly signed by--
 - (a) in the case of a bank incorporated in Mauritius, its principal officer and two of its directors;
 - (b) in the case of a bank incorporated abroad, its manager and the next most senior officer of the principal office or branch of the bank in Mauritius;
- (3) The balance sheet and profit and loss account referred to in subsection (1) shall be audited in the manner provided in section 25.

- (4) Every bank shall -
- (a) exhibit at all times, in a conspicuous place, at its principal place of business in Mauritius and at each of its offices and branches in Mauritius, a copy of its latest audited balance sheet;
 - (b) not later than four months after the end of its financial year, forward to the Central Bank, and publish in the Gazette and in at least on daily newspaper a copy of its latest audited balance sheet.
- (5) Any bank which fails to comply with subsection (4) shall commit an offence and shall, on conviction, be liable to a fine exceeding one thousand rupees for each day on which the offence occurs or continues.

24. Monthly statement of assets and liabilities, advances, bills, etc

- (1) Every bank shall, not later than the fifteenth day of each month, forward to the Central Bank a statement in such form as may, from time to time, be approved by the Central Bank, showing the assets and liabilities of all its offices and branches in Mauritius together with an analysis of advances, bills discounted and other assets as at the close of business on the last working day of the preceding month
- (2) Every bank shall forward to the Central Bank such additional information in respect of its operations or those of its affiliates in Mauritius as the Central Bank may, from time to time, require for the purposes of this Act.
- (3) Any bank which fails to comply with this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding one thousand rupees for every day on which the offence occurs or continues.

25. Appointment, powers and duties of auditors

- (1) Every bank shall appoint annually an auditor, approved by the Central bank, whose duties shall be to
a make a report
 - (a) in the case of a bank incorporated in Mauritius, to shareholders;
 - (b) in the case of a bank incorporated abroad, to the head Office of the bank,upon the annual balance sheet and profit and loss account.
- (2) The auditor shall, in the report referred to in subsection (1), state whether -
 - (a) the balance sheet and profit and loss account are, in his opinion, complete and fair and properly drawn up;
 - (b) whether the balance sheet and profit and loss account present a true and correct statement of the affairs of the bank; and
 - (c) the explanations or information, where the auditor has called for such information or explanation, given by the officers or agents of the bank are satisfactory.
- (3) The report compiled under subsection (2) shall –
 - (a) in the case of a bank incorporated in Mauritius, be read together with the report of its board of management at its annual meeting of shareholders; and
 - (b) in the case of a bank incorporated abroad, be transmitted to its head office.
- (4) A copy of the report under subsection (2) shall, as soon as is reasonably practicable and in any event not later than one month after it is made, be sent to the Central Bank.
- (5) Where a bank fails to appoint an auditor approved by the Central Bank, an auditor may be appointed by the Central Bank.

- (6) Every auditor, whether appointed under subsection (1) or (5), shall have a right of access at all times to the books, accounts and vouchers of the bank in relation to which he has been appointed and those of its affiliates in Mauritius, if any, and shall be entitled to require from the directors and officers of that bank or its affiliates in Mauritius such information and explanations as may appear to him to be necessary for the performance of his duties under this section.
- (7) Any auditor, whether appointed under subsection (1) or (5), shall be paid by the bank in respect of which he has been appointed and, where he has been appointed under subsection (5), his remuneration shall be determined by the Central Bank.

26. Regular inspection of banks

The Central Bank shall, from time to time, cause an inspection of the operations and affairs of every bank to be made by any one of its officers.

27. Examination of banks

Where, in relation to any bank, an examination appears to be necessary or expedient in order to determine whether the bank is in a sound financial condition and whether the requirements of this Act are being complied with, the Central Bank may appoint any person to conduct an examination in respect of the affairs of the bank and of its affiliates, if any.

28. Powers and duties of inspectors and examiners

- (1) Any person making an inspection under section 26 or any person appointed under section 27 to conduct an examination shall, in relation to the bank in respect of which the inspection is to be made or the examination is to be conducted, be entitled to examine all books, minutes, accounts, cash, securities, vouchers and any other document whatsoever in the possession or custody of the bank or of its affiliates and to require, within such time as he may specify, such information concerning its business, or that of its affiliates in Mauritius, as appear to him to be necessary.

(2) Where any bank or its affiliate—

(a) fails to produce any book or other document or information required under subsection (1);
or

(b) gives information, or produces any book or other document required under subsection (1), which is false in any material particular,

it shall commit an offence and shall, on conviction, be liable to a fine not exceeding one thousand rupees.

29. Powers of the Central Bank following examination

Where, in relation to any bank, the Central Bank considers that an examination conducted under section 27 discloses that—

(a) the bank is conducting its business in a manner detrimental to the interests of its depositors;
or

(b) the bank has insufficient assets to cover its liabilities;

(c) the capital of the bank is impaired; or

(d) the bank is otherwise in an unsound condition,

the Central Bank may –

(i) require the bank forthwith to take such steps as may appear to the Central Bank to be necessary to remedy the situation; or

(ii) with the approval of the Minister, appoint a person to advise the bank in the proper conduct of its business and fix the remuneration to be paid by the bank to the person so appointed; or

- (iii) with the approval of the Minister, suspend the licence of the bank for a period not exceeding six months.

30. Disqualification of directors, managers, etc

- (1) Without prejudice to anything contained in the Companies Ordinance, any person who is a director, manager or other officer concerned with the management of a bank, shall cease to hold office-
 - (a) if he is declared bankrupt or makes a composition with his creditors; or
 - (b) if he is convicted of an offence involving fraud or dishonesty.
- (2) No person who has been a director of, or indirectly concerned in, the management of a bank which has been liquidated shall, without the written authorisation of the Central Bank, act or continue to act as a director of, or be directly or indirectly concerned in the management of a bank.
- (3) Any person acting in breach of this section shall commit an offence and shall, on conviction, be liable, to penal servitude for a term not exceeding five years and to a fine not exceeding ten thousand rupees

31. Disclosure of interest by director

- (1) Every director of a bank who is, in any manner whatsoever, whether directly or indirectly, interested in an advance, loan or credit facility from the bank shall, as soon as is reasonably practicable, declare the nature of his interest to the board of directors of the bank and shall cause the declaration to be circulated forthwith to all the directors individually
- (2) The provisions of subsection (1) shall not apply in any case where –

- (a) the interest of the director consists only of his being a creditor of, or holder of any interest in, a concern which is seeking an advance, loan or credit facility from the bank; and
 - (b) the interest is certified by the Central Bank not to be a material interest.
- (3) For the purpose of subsection (1), a general notice given to the board of directors of a bank by a director to the effect that—
- (a) he is a creditor of, or has an interest in, a concern specified in the notice; and
 - (b) he is to be regarded as interested in any advance, loan or credit facility which may, after the date of the notice, be made to that concern,

shall be deemed to be a sufficient declaration of interest in relation to any advance, loan or credit facility made to the concern, if

- (i) the general notice specifies the nature and extent of his interest in the concern specified therein;;
 - (ii) the interest is not different in nature from, or greater in extent than, the interest specified in the notice at the time any advance, loan or credit facility, is made to the concern so specified; and
 - (iv) the notice is given at a meeting of the board of directors or the director takes reasonable steps to ensure that it is so given at the earliest opportunity.
- (4) Where a director of a bank who holds any office or acquires any property whereby, whether directly or indirectly, duties or interests might be created in conflict with his duties or interest as director of the bank, he shall make, at a meeting of the board of directors of the bank, a declaration as to the fact, nature and extent of the conflict.
- (5) The declaration referred to in subsection (4) shall be made at the first meeting of the board of directors held—

- (a) after the declarant becomes a director of the bank; or
 - (b) if he is already a director, after he commences to hold the office or comes into possession of the property, as the case may be -
- (6) Every director who makes a declaration under subsection (4) shall cause the declaration to be –
- (a) given at the meeting of the board of directors at the earliest opportunity; and
 - (b) recorded in the minutes of the meeting at which it is given.
- (7) Any director who fails to comply with any of the provisions of subsections (1), (4), (5) and (6) shall commit an offence and shall, on conviction, be liable to penal servitude for a term not exceeding five years and to a fine not exceeding ten thousand rupees.

32. Offences by directors or agents of banks

- (1) Any person who, being a director, manager, officer or agent of a bank,
- (a) makes, with intent to deceive, any false or misleading statement or entry or omits any statement or entry in any book, account, report or statement of the bank; or
 - (b) obstructs or attempts to obstruct an examination of the affairs of the bank under the provisions of this Act; or
 - (c) fails to take all reasonable steps to ensure compliance by the bank with the provisions of this Act;
or
 - (d) is privy to any offence committed under this section, shall commit an offence.

- (2) Any person convicted of an offence under this section shall be liable to penal servitude for a term not exceeding five years and to a fine not exceeding ten thousand rupees.

33. Restriction as to prosecutions

No prosecution for any offence under this Act shall be instituted except with the written consent of the Director of Public Prosecutions

34. Evidence in relation to banker's books

- (1) Notwithstanding anything contained in any law in force, a copy of any entry in a banker's book shall be prima facie evidence of such entry and of the matters, transactions and accounts recorded therein if—
 - (a) the book was, at the time the entry was made, one of the ordinary books of the bank;
 - (b) the entry was made in the usual course of banking business;
 - (c) the book is in the custody of the bank; and
 - (d) the copy of the entry has been compared with, and is a correct copy of, the original entry.
- (2) No officer, employee or agent of a bank shall, in any proceedings to which the bank is not a party, be compellable to produce any banker's book the contents of which can be proved under subsection (1) or to appear as a witness to prove the matters, transactions and accounts recorded therein except by Order of a Court or Judge on good cause shown.

- (3) A Court or Judge may, on the application of any party to legal proceedings, order that such party be at liberty to inspect and take copies of any entry in a banker's book for the purposes of the proceedings.
- (4) Any application made under subsection (3) shall be served on the bank in respect of whose banker's books the application is made.
- (6) For the purposes of this section, "banker's books" include ledgers, day books, cash books, accounts books and all other books used in the ordinary course of banking business.

35. Validity of thumb-print

In all the transactions connected with the opening of, deposit into, or withdrawal from, a savings bank account or a fixed deposit account, the thumb-print of the depositor who is unable to sign shall, if affixed in the presence of an officer of the bank, have the same legal effect as if the depositor had signed his name.

36. Confidentiality of information

- (1) Nothing contained in this Act shall be construed as authorising an enquiry to be made into the affairs of any customer of a bank.
- (2) Subject to the provisions of this Act, it shall not be lawful for the Central Bank or any person making an inspection or conducting an examination by it under the provisions of Part V to reveal, unless required by a court of law so to do, to any person any information in relation to the affairs of a customer, obtained in the course of an inspection made or as an examination conducted under Part V.
- (3) The Central Bank may publish, in whole or in part, at such times as it may determine, information or data furnished under this Act provided that the information or data do not disclose the particular financial situation of any bank or customer, unless the consent of the bank or the customer, as the may be, has been obtained.

37. Bank holidays

- (1) The Central Bank may, with the approval of the Minister, declare by notice published in the Gazette any day to be a bank holiday
- (2) Notwithstanding subsection (1) the Central Bank may, in the event of cyclonic weather, declare, in such manner as it deems necessary, a day to be a bank holiday.
- (3) Except with the permission of the Central Bank, no bank may transact business with the public on any bank holiday or on any public holiday under the Public Holidays Act, 1968.
- (4) Any obligation which is required to be fulfilled at a bank and which falls due on any bank holiday or public holiday shall be deemed to fall due on the day next following the bank holiday or public holiday, as the case may be.

38. Hours of business

Subject to the provisions of this Part every bank shall, during the hours fixed by the Central Bank, remain open for the transaction of business with the public.

39. Penalties

Any person or any bank, as the case may be, acting in breach of the provisions of this Act and for which no penalty is specifically provided shall commit an offence and shall, on conviction, be liable to a fine not exceeding two thousand rupees.

40. Winding up of banks (Cap. 397)

Notwithstanding anything contained in the Companies Ordinance, the following provisions shall apply in relation to the winding up of a bank, that is to say –

- (a) the Accountant in Bankruptcy shall be the liquidator;

- (b) the Court may, if it considers that no object will be thereby served sufficient to justify the delay and expense, dispense with any meeting of creditors or contributors or with the appointment of a committee of inspection;
- (c) the amounts shown in the books of a bank as standing to the credit of depositors shall, unless the liquidator shows that there is reason to doubt the entry, be presumed to be proof of those amounts without further proof from the depositors.

41. Regulations

- (1) The Minister may make such regulations as he deems necessary for carrying into effect the provisions of this Act.
- (2) The regulations may provide that any person who acts in contravention thereof shall commit an offence and shall, on conviction, be liable to imprisonment for a term not exceeding one year and to a fine not exceeding one thousand rupees.
- (3) Any regulations made under this section shall be laid on the table of the Assembly.

42. Application of Act (Ord. No. 57 of 1950)

This Act shall not apply to –

- (a) the Savings Bank established under the Savings bank Ordinance, 1950; or
- (b) any co-operative society registered under the Co-operative Credit Societies Ordinance, 1945; or
- (c) the Development Bank of Mauritius established under the Development Bank of Mauritius Ordinance, 1963;
- (d) Such other institutions as the Minister may, from time to time, specify by Order published in the Gazette.

43. Repeal Ord No. 1 of 1958

The Banking Ordinance, 1958 is hereby repealed

44. Commencement

Proclaimed by [\[Proclamation No. 10 of 1971\]](#) w.e.f. 16th August 1971

(1) This Act shall come into force on a day to be fixed by Proclamation.

(2) Different days may be fixed for the coming into force of different provisions of this Act.

Passed in the Legislative Assembly, Island of Mauritius, this twenty-ninth day of June, one thousand nine hundred and seventy-one.

Guy T. D'Espaignet,
Clerk of the Legislative Assembly