

THE BANK OF JAMAICA ACT

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SCHEDULE

THE BANK OF JAMAICA ACT

[1st October, 1960.]

PART I. *Preliminary*

Law	15 of 1984,
32 of 1960.	4 of 1985,
Acts	8 of 1989,
37 of 1964,	32 of 1991,
31 of 1966,	11 of 1992
7 of 1969	Sch.,
Sch.,	15 of 1992,
12 of 1971,	2 of 1995,
22 of 1971,	10 of 2001,
18 of 1973,	17 of 2002,
44 of 1975,	28 of 2003
33 of 1976,	S. 2.,
10 of 1977,	1 of 2004,
17 of 1978,	7 of 2005,
21 of 1978,	15 of 2009,
	2 of 2010
	S. 13.,
	32 of 2010
	S.30.

1. This Act may be cited as the Bank of Jamaica Act.

Short title.

2. In this Act unless the context otherwise requires—

Interpreta-
tion.

“approved foreign currency” means any foreign currency declared by order of the Minister after consultation with the Bank to be an approved foreign currency;

18/1973
S. 2.

“approved money transfer and remittance agency or agent” means a company which is approved by the Minister to carry on the business of transferring or transmitting money or any representation of monetary value, by any means from or to Jamaica;

1/2004
S. 2.

“authorized dealer” means, in relation to any foreign currency, a person for the time being authorized by an order of the Minister to act for the purposes of this Act as an authorized dealer in relation to that foreign currency or foreign currency instruments;

11/1992
Sch.

“authorized officer” means the Supervisor, Deputy Supervisor or any other person authorized to perform functions on behalf of the Supervisor or the Deputy Supervisor under this Act;

15/1992
S. 2(a).

“Bank” means the Bank of Jamaica established under this Act;

“Board” means the Board of Directors of the Bank appointed under section 6;

BANK OF JAMAICA

“commercial bank” means a company duly licensed in accordance with the provisions of the Banking Act, to carry on banking business;

37/1964
S. 2.

“Commonwealth” means the Commonwealth as defined in section 2 of the Jamaican Nationality Act;

10/1977
S. 2.

“Deputy Governor” means a Deputy Governor of the Bank appointed pursuant to section 6;

15/1992
S. 2 (c).

“Deputy Supervisor” means the Deputy Supervisor of Banks and Financial Institutions appointed under section 34B;

“financial year” means the financial year of the Bank;

11/1992
Sch.

“foreign currency” means any currency other than Jamaican currency; and any reference to foreign currency except so far as the context otherwise requires, includes a reference to any right to receive foreign currency in respect of any credit or balance at a bank;

11/1992
Sch.

“foreign currency instrument” means an instrument denominated in or giving a right to foreign currency;

11/1992
Sch.

“foreign securities” includes shares, stock, bonds, notes (other than promissory notes) debentures or debenture stock on which capital monies and dividends are payable in foreign currency;

15/1992
S. 2 (d).

“functions” includes duties and powers and all activities necessary to give effect to the objects specified in section 5;

“Governor” means the Governor of the Bank appointed pursuant to section 6;

“notes” and “coins” mean respectively notes and coins of the currency of the Island;

7/2005
S. 2.

“overseas regulatory authority” means an authority which exercises functions similar to that of the Bank or the Financial Services Commission, in a country outside Jamaica;

“perform”, in relation to functions, includes exercise, and grammatical variations of the expression shall be construed accordingly;

“prudential criteria” means criteria and standards established under this Act for the purpose of setting outside limits and constraints on commercial banks and specified institutions for the protection of depositors, shareholders and potential shareholders and for ensuring the safety and soundness of the financial system; 2/1995 S. 2.

“Senior Deputy Governor” means a Senior Deputy Governor of the Bank appointed pursuant to section 6; 15/1992 S. 2 (e).

“specified financial institution” means a person or undertaking (not being a commercial bank)— 15/1992 S. 2 (f).

(a) who is licensed under the Financial Institutions Act; or

(b) whose business includes the granting of loans or other credit facilities or the accepting of deposits and who is declared by the Minister by notice in the *Gazette* to be a specified financial institution for the purposes of this Act;

“Supervisor” means the Supervisor of Banks and Financial Institutions appointed under section 34B; 15/1992 S. 2 (g).

“Supervisory Department” means the Department of Supervision of Banks and Financial Institutions established under Part VA; 15/1992 S. 2 (g).

PART II. *Constitution*

3.—(1) There is hereby established for the purposes of this Act a Bank to be known as the Bank of Jamaica. Establishment of Bank of Jamaica.

(2) The Bank shall be a body corporate having perpetual succession and a common seal and, subject to the provisions of this Act, with power to acquire, hold and dispose of land and other property of whatever kind and to enter into contracts and to do all things necessary for the purposes of its functions.

(3) The Bank may sue and be sued in its corporate name and may for all purposes be described by that name.

10/1977
S. 3
15/1992
S.3(a).

(4) The seal of the Bank shall be authenticated by the signature of the Governor, the Senior Deputy Governor or a Deputy Governor and one other director authorized to act in that behalf and shall be judicially and officially noticed.

(5) All documents, other than those required by law to be under seal, made by and all decisions of the Board may be signified under the hand of the Governor, the Senior Deputy Governor or any director or officer authorized to act in that behalf.

Place of
business.

4. The Bank shall have its principal place of business in Kingston and may maintain such branches, agencies and correspondents (whether in Jamaica or elsewhere) as the Board may think necessary.

General
objects of
Bank.

5. The principal objects of the Bank shall be to issue and redeem notes and coins, to keep and administer the external reserves of Jamaica, to influence the volume and conditions of supply of credit so as to promote the fullest expansion in production, trade and employment, consistent with the maintenance of monetary stability in Jamaica and the external value of the currency, to foster the development of money and capital markets in Jamaica and to act as banker to the Government.

Board of
Directors.

6.—(1) There shall be a Board of Directors of the Bank which, subject to the provisions of this Act, shall be responsible for the policy and the general administration of the affairs of the Bank.

15/1992
S. 4 (a).

(2) The Board shall consist of the following directors—

- (a) the Governor and the Senior Deputy Governor;
- (b) the Financial Secretary or the person for the time being exercising the functions of that office; and
- (c) subject to subsection (3), six other directors appointed by the Minister by instrument in writing.

10/1977
S. 4(a).
15/1992
S.4 (b).

(3) The Minister may on the recommendation of the Board, by instrument in writing appoint a Senior Deputy Governor and one or more persons to be Deputy Governors;

and where the Minister deems fit, he may in the same or a subsequent instrument further appoint one or more such Deputy Governors to be directors so, however, that any such appointment shall be left out of account in determining the number of directors that may be appointed pursuant to subsection (2).

(4) The Governor, or, in his absence, the Senior Deputy Governor, or, in the absence of the Governor and the Senior Deputy Governor, a Deputy Governor designated by the Minister, shall be in charge of the day to day management and operations of the Bank and shall be answerable to the Board for his acts and decisions.

10/1977
S. 4 (b).
15/1992
S. 4 (c).

37/1964
S. 4 (b).

(5) No action, suit, prosecution or other proceedings shall be brought or instituted personally against any director in respect of any act done *bona fide* in pursuance or execution or intended execution of this Act.

(6) Where any director is exempt from liability by reason only of the provisions of subsection (5) the Bank shall be liable to the extent that it would be if that director were a servant or agent of the Bank.

15/1992
S. 4 (d).

(7) The provisions of the Schedule shall have effect as to the tenure of office of the directors and the operations of the Board and otherwise in relation thereto.

Schedule.

(8) The Governor, Senior Deputy Governor and Deputy Governors shall be appointed by the Minister by instrument in writing for a period not exceeding five years on such terms and conditions as may be specified and—

15/1992
S. 4 (e).

- (a) shall be fully employed in the service of the Bank for that period;
- (b) shall be eligible for reappointment; and
- (c) while holding office, shall not, without the permission of the Minister and the Board, occupy any other office of employment whether remunerated or not.

Power to
appoint
officers,
agents and
servants.

7.—(1) Subject to subsection (2), the Bank may appoint and employ at such remuneration and on such terms and conditions as it thinks fit, such officers, agents and servants as the Board considers necessary for the due performance of the functions of the Bank.

15/1992
S. 5 (a).

(2) An annual salary exceeding the prescribed rate shall not be assigned to any post without the prior approval of the Minister; and no appointment to any post to which an annual salary exceeding the prescribed rate is assigned shall be made without the prior approval of the Minister.

18/1973
S. 4.

(3) The Governor-General may, subject to such conditions as he may impose, approve of the appointment of any public officer in the service of Jamaica to any office with the Bank and any public officer so appointed shall, in relation to pension, gratuity or other allowance, and to other rights as a public officer, be treated as continuing in the service of the Government.

15/1992
S. 5 (b).

(4) In subsection (2) the prescribed rate means a rate of two hundred thousand dollars per annum or such higher rate as the Minister may, by order, prescribe.

15/1992
S. 5 (b).

(5) The Bank may, with the approval of the Minister, make regulations establishing schemes for pensions, gratuities and other retiring benefits in respect of the officers and servants of the Bank and such regulations may include provisions for the grant of benefits to the dependants or the legal personal representatives of such officers and servants.

15/1992
S. 5 (b).

(6) The Bank may provide for training of such employees of the Bank or other persons as appear to the Board to be suitable for training in the subjects of money and banking, statistics, finance and such other subjects as the Board considers necessary.

PART III. *Capital and Reserve*

Capital of
the Bank.

8.—(1) The authorized capital of the Bank shall be two million dollars.

(2) Upon the establishment of the Bank there shall be paid by the Government from the Consolidated Fund in respect of such capital the sum of five hundred thousand dollars.

(3) The balance of fifteen hundred thousand dollars shall be paid from the Consolidated Fund at such times as the Board with the approval of the Minister may require.

(4) Subject to the approval of the House of Representatives the capital of the Bank may from time to time be increased by resolution of the Board.

(5) The amount of any increase specified in a resolution referred to in subsection (4) shall be paid from the Consolidated Fund. 15/1992
S. 6.

9.—(1) The Bank shall establish and maintain a General Reserve Fund— General
Reserve
Fund.

(a) to which, subject to subsection (2), shall be transferred at the end of each financial year the net profits of the Bank after allowing for the expenses of the operation and after provision has been made for bad and doubtful debts, depreciation in assets, contributions to staff and superannuation funds and other contingencies including the provision for a sufficient reserve against exceptional expenditure; and 18/1973
S. 6 (a).

(b) upon which shall be charged any net losses of the Bank at the end of any financial year. 18/1973
S. 6 (b).

(2) Whenever the sums standing to the credit of the General Reserve Fund amount to five times the Bank's authorized capital the residue of any such net profits as are referred to in paragraph (a) of subsection (1) shall be paid to the Consolidated Fund. 15/1992
S. 7 (a).

(3) If any net losses referred to in subsection (1) exceed the amount of the General Reserve Fund at the end of the financial year— 15/1992
S. 7 (b).

- (a) a sum equivalent to the excess shall be paid to the Bank from the Consolidated Fund; or
- (b) if, in the opinion of the Minister, such payment cannot be made then such securities as may be agreed between the Bank and the Minister shall be issued to the Bank and such securities shall be charged on the Consolidated Fund.

15/1992
S. 7 (c).

(4) Where a sum has been paid from the Consolidated Fund pursuant to subsection (3) (a) it shall be repaid by the Bank from the General Reserve Fund at such time and in such amounts as the Minister may approve, so, however, that the repayment of the sum shall not at any time have the effect of reducing the General Reserve Fund to less than five times the Bank's authorized capital.

PART IV. *Currency, Coinage and Legal Tender*

Currency
of the
Island.
7/1969
1st Sch.

10.—(1) The currency of the Island shall be the decimal currency provided for in this Part and shall consist of the notes and coins in such currency issued by the Bank under this Act.

(2) The monetary unit, or unit of currency, of the Island is the dollar.

(3) The denominations of money in the currency of the Island are the dollar and the cent.

(4) A cent is one-hundredth part of a dollar.

Parity
of the
Jamaica
dollar.
22/1971
S. 2.
15/1992
S. 8.
31/1966
S. 2.

11.—(1) The parity of the Jamaica dollar shall be fixed on such basis as the Minister may from time to time, after consultation with the Governor, by order, declare.

(2) An order made under subsection (1) may contain such consequential, supplemental or ancillary provisions (including modifications of the provisions of this Act) as the Minister may consider necessary or expedient for the purposes of the order.

(3) An order made under subsection (1) shall be subject to negative resolution.

31/1966
S. 2.

12.—(1) Subject to section 14, the Bank shall have the sole right and authority to issue notes and coins in the Island.

Sole right to issue notes and coins.
18/1973
S. 7.
15/1992
S. 9 (b).

(2) No person other than the Bank shall issue in Jamaica notes or coins, or any documents or tokens payable to bearer on demand, having the appearance of, or purporting to be, or which are likely to pass as or be confused with notes or coins issued by the Bank.

(3) Any person who contravenes subsection (2) shall be guilty of an offence and liable—

15/1992
S. 9 (b).

(a) on summary conviction in a Resident Magistrate's Court to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment;

(b) on conviction in a Circuit Court to a fine or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

13. Notes issued by the Bank shall be exempt from the payment of stamp duties.

Exemption from stamp duty on notes.

14.—(1) The Minister may after consultation with the Bank—

Denominations and forms of notes and coins.

(a) approve, subject to subsection (2), the denominations, form and design of notes and coins to be issued by the Bank;

18/1973
S. 8 (a).

(b) by order determine the standard weight and composition of coins to be issued by the Bank and the amount of remedy (or variation from the standard weight and composition) which may be allowed in the making of such coins.

18/1973
S. 8 (c).

(2) The power of the Minister under paragraph (a) of subsection (1) shall be exercised on the recommendation of the Bank, so, however, that where on any occasion the Minister disagrees with a recommendation of the Bank he shall require the Bank to reconsider that recommendation and may, if a recommendation acceptable to him is not thereafter furnished by the Bank, exercise the power aforesaid on that occasion otherwise than on the recommendation of the Bank.

Legal
tender.
7/1969
1st Sch.

15.—(1) Subject to the provisions of subsection (2) and of section 16, a tender of payment of money—

15/2009
S. 2.

(a) if made in notes, shall be legal tender for the payment of any amount; and

15/2009
S. 2.

(b) if made in coins, shall be legal tender for the payment of an amount not exceeding the face value of a maximum of fifty coins in any combination of denominations.

(c) [*Deleted by Act 15 of 2009, S.2.*]

(d) [*Deleted by Act 15 of 2009, S.2.*]

(e) [*Deleted by Act 15 of 2009, S.2.*]

(2) A coin that is bent, mutilated or defaced, or that has been reduced in weight otherwise than by abrasion through ordinary use shall not be legal tender.

Demonetiza-
tion of
notes and
coins.

16.—(1) The Bank shall have power on giving three months' notice in the *Gazette* to call in any notes and coins on payment of the face value thereof and any such notes or coins with respect to which a notice has been given under this section shall, on the expiration of the notice, cease to

be legal tender, but shall be redeemed by the Bank upon such conditions as may be prescribed.

(2) A person shall not be entitled to recover from the Bank the value of any lost, stolen, mutilated, or imperfect note or coin. The circumstances in which, and the conditions and limitations subject to which, the value of lost, stolen, mutilated or imperfect notes or coins may be refunded as of grace shall be within the absolute discretion of the Bank.

(3) If the Minister considers it necessary or expedient so to do he may, by order published in the *Gazette*, direct that such notes and coins as may be specified in the order shall cease to be legal tender as from such date as may be specified in the order, not being less than ten days from the date of publication in the *Gazette*; and as from the date so specified the notes and coins so specified shall not be redeemed by the Bank unless the Bank is satisfied that any omission to redeem those notes or coins prior to that date arose from circumstances which, in the opinion of the Bank, in their absolute discretion, were such as to excuse the omission.

21/1978
S. 2.

17. [*Repealed by Act 15 of 1992.*]

18. Every contract, sale, payment, bill, note, instrument and security for money, and every transaction, dealing, matter and thing whatever relating to money or the liability to pay any money which is made, executed or entered into, done or had, shall be made, executed, entered into, done and had according to the currency of the Island and not otherwise unless they are made, executed, entered into, done or had according to the currency of some other country, so, however, that nothing in the section shall operate so as to invalidate a will or other testamentary instrument.

Contracts,
etc., to be
in currency.

7/1969
1st Sch.

Functions
of Bank in
relation to
currency.

19. The Bank shall—

- (a) arrange for the printing of notes and the minting of coins for circulation in Jamaica;
- (b) issue, re-issue and redeem such notes and coins;
- (c) arrange for the safe custody of unissued stocks of notes and coins and for the preparation, safe custody and destruction of plates and paper for the printing of notes and dies for the minting of coins.

20. [*Repealed by Act 15 of 1992.*]

Reserve
assets in
relation to
currency
issue.
18/1973
S. 11.

21.—(1) The Bank shall hold assets of an amount in value sufficient to cover the value of the total amount of notes and coins for the time being in circulation.

(2) [*Deleted by Act 15 of 1992.*]

15/1992
S. 12 (b).

(3) For the purposes of subsection (1) such assets shall include all or any of the following—

- (a) gold coin or gold bullion;
- (b) foreign currency notes or coins;
- (c) money at call or on deposit with banks outside of Jamaica;
- (d) securities, including Treasury bills, issued or guaranteed by any government other than the Government of Jamaica;
- (e) securities issued by international financial institutions of which Jamaica is a member and which

are denominated in a currency other than the currency of Jamaica;

- (f) any other foreign assets which are denominated in currencies which are readily convertible into gold or any approved foreign currency;
- (g) Special Drawing Rights allocated to Jamaica pursuant to section 1 of Article XXI of the Fund Agreement.

(4) For the purposes of this section—

- (a) the value of coins in circulation shall be such portion, not less than seventy-five *per centum*, of the value of coins issued by the Bank and not redeemed, as the Minister shall specify by order;
- (b) “Fund Agreement” has the meaning assigned to it in section 2 of the Bretton Woods Agreements Act.

22. The Minister, after consultation with the Bank, may make regulations—

Power of Minister to make regulations.

- (a) prescribing anything required to be prescribed under this Part or paragraph (b) of section 30;
- (b) with respect to any matter relative to currency and coinage not provided for in this Act.

PART IVA. *Dealings in Foreign Currency*

11/1992 Sch. Foreign currency transactions.

22A.—(1) Except as provided in subsections (2) and (3), any person may buy, sell, borrow or lend foreign currency or foreign currency instruments.

(2) No person shall carry on the business of buying, selling, borrowing or lending foreign currency or foreign currency instruments in Jamaica unless he is an authorized dealer.

(3) It shall be unlawful for any person to buy, sell, borrow or lend foreign currency or foreign currency instruments in a transaction involving the payment of Jamaican currency,

unless the payment is made to or, as the case may be, by an authorized dealer.

Ministerial
directions to
certain classes
of persons.

22B.—(1) Persons belonging to the following classes, that is to say—

- (a) authorized dealers;
- (b) persons to whom any powers of the Minister under this Act are delegated;
- (c) companies licensed under the Financial Institutions Act;
- (d) insurance companies;
- (e) credit unions;
- (f) societies registered under the Building Societies Act;
- (g) persons who, with the approval of the Minister, operate exchange bureaux;
- (h) managers and trustees of unit trust schemes registered under the Unit Trusts Act;
- (i) persons who operate or manage superannuation or pension funds;
- (j) approved money transfer and remittance agents and agencies,

shall not acquire foreign assets except in accordance with such directions as may from time to time be given to them, respectively by the Minister as respects the acquisition of foreign assets.

(2) Reference in subsection (1) to the acquisition of foreign assets includes a reference to the acquisition of foreign assets pursuant to an arrangement under which such assets are exchanged for Jamaican currency or for other assets located in Jamaica.

(3) Any directions given under subsection (1)—

- (a) may be either general or special;
- (b) may be revoked or varied by subsequent directions; and

- (c) shall be given to such persons and in such manner as the Minister thinks appropriate, and if so given, shall be valid for all purposes.

(4) Notwithstanding paragraph (c) of subsection (3), a person shall not, by virtue of any direction given by the Minister under this Act, be convicted of an offence against this Part or Part IVB, unless the direction was served on him or he knew or avoided getting to know, of the giving thereof, so, however, that where reasonable steps were taken for the purpose of bringing the purport of the direction to his notice, it shall be for him to show that he neither knew nor avoided getting to know, of the giving thereof. 1/2004
S. 3(b)

(5) The Minister may, to such extent and subject to such restrictions and conditions as he may think proper, delegate to the Bank of Jamaica any of his powers under this Part or Part IVB and references in this Part or Part IVB shall be construed accordingly. 1/2004
S. 3(b)

(6) Any documents stating that any direction is given under any of the provisions of this Part or Part IVB by the Minister, and purporting to be signed on his behalf, shall be evidence of the facts stated in the document. 1/2004
S. 3(b)

(7) In this section “foreign assets” includes—

- (a) foreign currency;
- (b) foreign currency instruments;
- (c) real estate situated outside of Jamaica;
- (d) foreign securities;
- (e) any other assets located outside of Jamaica.

22C. The Minister may by order exempt any person or class of persons from any obligation or prohibition imposed under or pursuant to any provision of this Part or Part IVB and such exemption may be either absolute or conditional. Exemption.
1/2004
S. 4.

Offences.

1/2004

S. 4.

22D.—(1) Any person who contravenes any provisions of this Part or Part IVB or fails to comply with any requirement imposed by or under this Part or Part IVB shall be guilty of an offence and shall be liable—

(a) on summary conviction in a Resident Magistrate's Court to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding one year or to both such fine and imprisonment;

(b) on conviction before a Circuit Court to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

(2) Where an offence is committed under this Part or Part IVB the Court may, if it thinks fit—

(a) in relation to an offence involving any foreign currency or foreign currency instrument, order the foreign currency or foreign currency instrument, as the case may be, to be forfeited; and

(b) impose a larger fine not exceeding three times the amount or value of the currency or instrument, as the case may be.

1/2004

S. 4.

(3) No proceedings for an offence punishable under this Part or Part IVB shall be instituted, except by or with the consent of the Director of Public Prosecutions.

(4) Subsection (3) shall not be construed as preventing the issue or execution of a warrant for the arrest of any person in respect of such an offence or the remanding in custody or on bail of any person charged with such an offence.

1/2004

S. 4.

Punishment without prosecution of offences in connection with directions.

2/1995

S. 3(c).

1/2004

S. 5(a).

22E.—(1) This section shall apply to any offence under section 22D (1), being an offence—

(a) committed by a person who with the approval of the Minister, operates an exchange bureau or a money transfer and remittance agency or as a money transfer and remittance agent; and

(b) specified in—

1/2004
S. 5(b)
Appendix.

- (i) Part A of the Appendix in relation to a person who operates an exchange bureau;
- (ii) Part B of the Appendix in relation to a person who operates a money transfer and remittance agency or as a money transfer and remittance agent.

(2) The Governor may, with the approval of the Director of Public Prosecutions, give to any person referred to in subsection (1) (a) who, in the opinion of the Director of Public Prosecutions, has committed an offence to which this section applies, a notice in writing in the prescribed form offering that person the opportunity to discharge any liability to conviction of that offence by payment of a fixed penalty under this section.

(3) No person shall be liable to be convicted of the offence if the fixed penalty is paid in accordance with this section and the requirement in respect of which the offence was committed is complied with before the expiration of the fifteen days following the date of the notice referred to in subsection (2) or such longer period (if any) as may be specified in that notice or before the date on which proceedings are begun, whichever event last occurs.

(4) Where a person is given notice under this section in respect of an offence, proceedings shall not be taken against any person for that offence until the end of the fifteen days following the date of the notice or such longer period (if any) as may have been specified therein.

(5) In subsections (3) and (4) "proceedings" means any criminal proceedings in respect of the act or omission constituting the offence specified in the notice under subsection (2) and "convicted" shall be construed in like manner.

(6) Payment of a fixed penalty under this section shall be made to the Collector of Taxes specified pursuant to subsection (7); and in any proceedings a certificate that payment of a fixed penalty was or was not made to the Collector of Taxes by a date specified in the certificate shall,

if the certificate purports to be signed by the Collector of Taxes, be admissible as evidence of the facts stated therein.

(7) A notice under subsection (2) shall—

- (a) specify the offence alleged;
- (b) give such particulars of the offence as are necessary for giving reasonable information of the allegation;
- (c) state—
 - (i) the period (whether fifteen days or a longer period) during which, by virtue of subsection (4), proceedings will not be taken for the offence; and
 - (ii) the amount of the fixed penalty and the Collector of Taxes to whom and the address at which it may be paid.

Appendix.

(8) The fixed penalty for the offences specified in the Appendix shall be the penalty specified therein in relation to such offences.

(9) In any proceedings for an offence to which this section applies, no reference shall be made after the conviction of the accused to the giving of any notice under this section or to the payment or non-payment of a fixed penalty thereunder unless in the course of the proceedings or in some document which is before the court in connection with the proceedings, reference has been made by or on behalf of the accused to the giving of such a notice or, as the case may be, to such payment or non-payment.

(10) The Minister may, by order, make provision as to any matter incidental to the operation of this section, and in particular, any such order may—

- (a) prescribe—
 - (i) the form of notice under subsection (2), and

the Collector of Taxes to whom a fixed penalty is payable;

- (ii) the nature of the information to be furnished to the Collector of Taxes along with any payment;
- (iii) the arrangements for the Collector of Taxes to furnish to the Bank, information with regard to any payment pursuant to a notice under this section;

(b) amend the Appendix.

Appendix.

22F. A person who, with the approval of the Minister, operates an exchange bureau, a money transfer and remittance agency or as a money transfer and remittance agent, shall pay, in respect of such operation, such annual fee as the Bank, with the approval of the Minister, may by notice determine.

Fees.
2/1995
S. 4.
1/2004
S. 6.

PART IVB. *Money Transfers and Remittances*

1/2004
S. 7.

22G.—(1) Except with the approval of the Minister, no person shall carry on the business of a money transfer and remittance agency or operate as a money transfer and remittance agent.

Money
transfer and
remittance
agency or
agent.

(2) Any person who carries on the business of a money transfer and remittance agency or who operates as a money transfer and remittance agent shall do so in accordance with such directions as may be issued by the Minister from time to time, and the provisions of section 22B(3) shall apply with necessary modifications in relation to directions issued under this subsection.

PART V. *Banking*

23. Subject to the provisions of this Act, the Bank may for the purpose of the performance of its functions—

Powers of
the Bank.

- (a) accept deposits of money;
- (b) pay money whether by demand drafts or other instrument payable at its own offices or at the offices of its agents or correspondents;
- (c) buy and sell gold coin and gold bullion;
- (d) buy, sell, discount and re-discount—
 - (i) inland or foreign bills of exchange or promissory notes maturing within two hundred and seventy

18/1973
S. 13(a).

days of the date of acquisition;

(ii) Treasury Bills issued by the Government of Jamaica or by any other government;

15/1992
S. 13 (a).
18/1973
S. 13 (b).

(e) buy and sell (whether in the open market or otherwise) securities issued or guaranteed by the Government of Jamaica or by any other government or issued by international financial institutions of which Jamaica is a member.

15/1992
S. 13 (b).

(f) grant to financial institutions loans and advances for fixed periods not exceeding six months on the security of all or any of the following—

18/1973
S. 13 (c).

- (i) gold coin or gold bullion;
- (ii) Treasury Bills of the Government of Jamaica or any other government;
- (iii) securities issued or guaranteed by the Government of Jamaica or by any other government;
- (iv) such bills of exchange and promissory notes as are eligible for purchase, discount or re-discount by the Bank;
- (v) warehouse warrants or their equivalent (securing possession of goods) in respect of finished or semi-finished products, duly insured and accompanied by a letter of hypothecation from the owner:

Provided that a loan granted on any such security as is mentioned in sub-paragraph (iii) or (iv) shall not exceed seventy-five *per centum* of the current market value of that security;

18/1973
S. 13 (d).

(g) buy and sell foreign currencies;

(h) maintain deposits in any other bank whether in Jamaica or elsewhere and utilize any such deposit as the Board thinks expedient for the due performance of the functions of the Bank;

15/1992
S. 13 (c).

(i) make arrangements or enter into an agreement with any bank or financial institution within or outside Jamaica to borrow in such manner, at such rates of interest and upon such other terms and conditions as it may think fit, any foreign currency which the Board may think it expedient to acquire;

- (j) with the approval of the Minister grant loans and advances for fixed periods to, or subscribe to, hold and sell the shares of any corporation which with the approval of or under the authority of the Government is established for the purpose of promoting the development of a money market or securities market in Jamaica or of improving the financial machinery for the financing of economic development; 18/1973 S. 13 (e). 37/1964 S. 10 (d).
- (k) do any other banking business incidental or ancillary to or consequential upon the performance of its functions;
- (l) in relation to the exercise of its borrowing powers under paragraph (i) issue debentures, bonds or other appropriate instruments and may establish a sinking fund for the redemption of any such instruments; 15/1992 S. 13 (d).
- (m) make loans and advances for fixed periods to persons who are in the whole-time service of the Bank for the purpose of facilitating the acquisition by them of housing or motor vehicles; 18/1973 S. 13 (f). 15/1992 S. 13 (e).
- (n) make arrangements or enter into an agreement with any bank, financial institution, confirming house or government agency outside Jamaica for facilitating transactions supported by letters of credit, on behalf of local importers or exporters, as the case may be; 15/1992 S. 13 (e).
- (o) negotiate and maintain lines of credit from financial institutions outside Jamaica; 15/1992 S. 13 (e).
- (p) issue standby letters of credit. 15/1992 S. 13 (e).

24.—(1) Except as authorized by this Act the Bank shall not—

- (a) engage in any trade;

Restrictions on business of the Bank. 15/1992 S. 14 (b).

- (b) purchase the shares of any other bank or of any other company or grant loans on the security of any shares in any bank or company;
- (c) lend money or make advances other than on any such security as is specified in paragraph (f) of section 23 or for the purposes prescribed in paragraphs (j) and (m) of that section except that where the security for a debt due to the Bank has or is likely to become in the opinion of the Board inadequate, the Bank may secure itself on any land the property of the debtor and may acquire such land which shall, however, be resold at the earliest suitable opportunity;
- (d) accept for discount, or as guarantee for an advance made by the Bank, bills or notes signed by any director, officer or employee of the Bank;
- (e) make loans or advances without security;
- (f) purchase, acquire or lease real property except in accordance with paragraph (c) and except so far as the Board considers necessary or expedient for the provision or future provision of business premises for the Bank and its agencies and of residences for the Governor, Senior Deputy Governors, Deputy Governors, officers and employees of the Bank.

18/1973
S. 14.

10/1977
S. 6.
15/1992
S. 14(a).

15/1992
S. 14(b).

(2) The Bank may, with the approval of the Board, grant to persons who are in the whole-time service of the Bank, credit facilities of such amount and on such terms as the Board may, from time to time, approve.

Minimum
discount
and
re-discount
rates.

25. The Bank shall from time to time fix and announce its minimum rates for discounts and re-discounts.

Bank as
bankers'
banker.

26. The Bank may act as banker to commercial banks in Jamaica and as agent and correspondent to banks abroad.

27.—(1) The Bank may promote establishment of clearing and settlement systems and provide facilities for the clearance and settlement of transactions between financial institutions and also act as the central counter-party of a system and provide liquidity or payment guarantees to individual systems or participants.

Clearance and settlement systems and facilities.
32/2010.
S. 30

(2) In order to ensure overall stability of the financial system, the Bank shall exercise oversight powers over the national payments system, including securities settlement systems, for the purpose of preventing or controlling systemic risk.

(3) In exercise of its oversight powers, the Bank shall have power to issue directions to individual systems or participants, as well as general or individual standards and guidelines, to undertake all necessary audit and inspections and to impose penalties for breaches of the applicable laws and regulations.

(4) In subsection (1) —

“central counter-party” means a partnership, agency, association, body corporate or other entity in a payment or securities clearing and settlement system which is interposed between the participants, and which acts as the exclusive counter-party of these entities with regard to their transfer orders;

“clearing and settlement system” or “system” means a system or arrangement for the clearing or settlement of—

(a) payment obligations or payment messages in which—

(i) there are at least three participants, at least one of which is the Bank or a bank;

(ii) clearing or settlement is in Jamaican currency or other currencies as determined by the Bank; and

(iii) the payment obligations that arise from clearing within the system or arrangement are ultimately settled through adjustments to the account or accounts of one or more of the participants at the bank;

(b) securities and derivatives transactions, foreign exchange transactions or other transactions, where the system or arrangement also clears or settles payment obligations arising from those transactions.

28.—(1) Subject to subsection (2) the Bank may from time to time by notice published in the *Gazette* vary the percentage of prescribed liabilities which—

(a) commercial banks are required to maintain with the Bank as a minimum cash reserve under section 14 of the Banking Act;

- (b) specified financial institutions are required to maintain with the bank as a minimum cash reserve under section 14 of the Financial Institutions Act,

so, however, that a percentage prescribed pursuant to this subsection shall not be less than five nor more than twenty-five *per centum*.

(2) Where any such percentage is to be increased—

- (a) the increase shall be so effected as not to exceed two percentage points in any one period of thirty days; and

- (b) it shall be the duty of the Bank to give all commercial banks or, as the case may be, specified financial institutions at least fifteen days' notice of the date on which the increase is to take effect.

15/1992
S.15 (b).
17/1978
S. 2.

(3) A notice under subsection (1) may make different provisions as respects different types of prescribed liabilities specified in the notice, so, however, that if any such notice prescribes marginal cash reserve requirements for increases in specified prescribed liabilities such requirements shall not exceed one hundred *per centum* of the increase in such liabilities.

18/1973
S. 15.
44/1975
S. 2.

(3A) Without prejudice to the generality of subsection (3), a notice under subsection (1) varying minimum cash reserves may require that where a portion of the prescribed liabilities in foreign currency then such percentage of the prescribed liabilities so payable as is specified in the notice shall be held in foreign currency so, however, that the percentage so specified shall not be less than five nor more than twenty-five *per centum*.

15/1992
S. 15 (c).

18/1973
S. 15.
44/1975
S. 2.

15/1992
S. 15 (d).

Special
deposits by
commercial
bank and
specified
financial
institution.
15/1992
S. 16.

(4) In subsection (3) “marginal cash reserve requirements” means in relation to any increases in specified prescribed liabilities, such percentage of the increase as is required to be maintained with the Bank for the purposes of section 14 of the Banking Act or, as the case may be, section 14 of the Financial Institutions Act.

28A.—(1) Without prejudice to the provisions of section 28, and subject to subsection (2) of this section, the Bank may, with the approval in writing of the Minister, require—

- (a) a commercial bank; and
- (b) a specified financial institution,

to maintain with the Bank in the form of a deposit (in this section referred to as a “special deposit”) an amount not exceeding twenty-five *per centum* of the amount of the prescribed liabilities of such bank or such specified financial institution.

(2) A commercial bank or specified financial institution may comply, in whole or part, with a requirement made pursuant to subsection(1) by investments in the form of—

- (a) Treasury bills issued by the Government of Jamaica;
- (b) certificates of deposit issued by the Bank; or
- (c) such other form of securities as the Bank may approve.

(3) Interest at such rate as the Minister may, by order, determine, shall be paid by the Bank on the amount of any special deposit referred to in subsection (1).

(4) The power conferred by subsection (1) may be exercised—

- (a) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of case;
- (b) so as to make, as respects the cases in relation to which it is exercised—
 - (i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise);
 - (ii) the same provision for all cases in relation to which the power is exercised or different provisions for different cases or classes of case, or different provisions as respects the same case or class of case for different purposes;
 - (iii) any such provision either unconditionally or subject to any specified condition.

(5) Where a bank or a specified financial institution on any day fails to comply with a requirement made pursuant to subsection (1), that bank or specified financial institution shall pay to the Bank in respect of that day interest calculated at a daily rate of one-sixth of one per cent (or such other rate as the Minister may, by order, approve) on the sum by which the amount of the special deposit in respect of that bank or specified financial institution falls short of the amount stated in the requirement as aforesaid.

29.—(1) Subject to subsection (2), the Bank may from time to time by notice published in the *Gazette* vary the percentage of prescribed liabilities which—

- (a) commercial banks are required to maintain with the Bank as liquid assets under section 15 of the Banking Act;
- (b) specified financial institutions are required to main-

Power to vary liquid assets requirements.
37/1964
S. 12.
18/1973
S. 16 (a).
15/1992
S. 17 (a).

tain with the Bank as liquid assets under section 15 of the Financial Institutions Act,

so, however, that a percentage prescribed pursuant to this subsection shall not be less than fifteen nor more than fifty *per centum* or, subject to subsections (1A) and (1B), such other percentage as the Minister may specify by order subject to *affirmative resolution*.

(1A) An order made under subsection (1) shall, subject to revocation or amendment, remain in force for a period of ninety days or such longer period as may be sanctioned under subsection (1B).

(1B) The House of Representatives and the Senate may from time to time by resolution sanction the extension of an order made under subsection (1A) for such period not exceeding ninety days as may be specified in the resolution.

(2) Where any such percentage is to be increased—

- (a) the increase shall be so effected as not to exceed five percentage points in any one period of thirty days; and
- (b) it shall be the duty of the Bank to give to all commercial banks or, as the case may be, specified financial institutions at least fifteen days' notice of the date on which the increase is to take effect.

(2A) Until other provision is made pursuant to subsection (1), the percentage of prescribed liabilities which a commercial bank is required to maintain as liquid assets shall, with effect from the 23rd of December, 1991, be the percentage maintained by that bank on the 20th of November, 1991.

(3) A notice under subsection (1) may make different provisions as respects different types of prescribed liabilities specified in the notice, so, however, that if any such notice prescribes marginal liquid assets requirements for increases in specified prescribed liabilities such requirements shall not

15/1992
S. 17 (b).
17/1978
S. 3 (b).

32/1991
S. 2(a).

18/1973
S. 16 (b).
44/1975
S. 3.

exceed one hundred *per centum* of the increase in such liabilities.

(3A) Without prejudice to the generality of subsection (3), a notice under subsection (1) varying minimum liquid assets may require that where a portion of the liquid assets is payable in foreign currency then such percentage of the liquid assets so payable as is specified in the notice shall be held in foreign currency, so, however, that the percentage so specified shall not be less than fifteen nor more than fifty *per centum*.

15/1992
S. 17 (c).

(4) In subsection (3) "marginal liquid assets requirements" means in relation to any increase in specified prescribed liabilities, such percentage of the increase as is required to be maintained as liquid assets for the purposes of section 15 of the Banking Act or, as the case may be, section 15 of the Financial Institutions Act.

44/1975
S. 3.

15/1992
S. 17 (d).

(5) The power conferred by subsection (1) may be exercised—

32/1991
S. 2 (b).

- (a) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of case;
- (b) so as to make, as respects the cases in relation to which it is exercised—
 - (i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise);
 - (ii) the same provision for all cases in relation to which the power is exercised or different provisions for different cases or classes of case, or different provisions as respects the same case or class of case for different purposes;
 - (iii) any such provision either unconditionally or subject to any specified condition.

Power of Bank to require information from commercial banks and specified financial institutions.
18/1973
S. 17.
15/1992
S. 18.
2/1995
S. 5 (b).

30.—(1) The Bank may—

- (a) require any commercial bank or specified financial institution to furnish, within such time and in such form as the Bank thinks necessary, such information as the Bank thinks requisite for the purpose of ascertaining whether that bank or specified financial institution is complying with the provisions of section 14 or 15 of the Banking Act, or section 14 or 15 of the Financial Institutions Act, or section 28, 28A or 29 of this Act;
- (b) require any commercial bank or specified financial institution to furnish, within such time and in such form as the Bank thinks necessary, such information of any prescribed class as the Bank considers requisite for the proper discharge of its functions and responsibilities;
- (c) require any person mentioned in section 22B (1) to furnish, within such time and in such form as the Bank thinks necessary, such information as the Bank thinks requisite for the purpose of ascertaining whether that person is complying with the provisions of section 22B.

18/1973
S. 17.

2/1995
S. 5 (a).

2/1995
S. 5 (e).

(2) Any person who fails to furnish information in accordance with a requirement made under paragraph (a), (b) or (c) of subsection (1) shall—

- (a) be guilty of an offence and liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding one hundred and fifty thousand dollars; and
- (b) if the offence is continued after conviction, be guilty of a further offence and liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding five thousand dollars for every day during which the offence is so continued.

31. [Repealed by Act 15 of 1992.]

32. The Bank may by notice prescribe the minimum ratio which, after the expiration of six months from the date of service of the notice, assets held in Jamaica by commercial banks and specified financial institutions shall bear to their deposit liabilities in Jamaica, but any variation of such a ratio shall not exceed five percentage points in any one period of six months.

Local
assets
ratio.15/1992
S. 20.

33.—(1) The Bank may, after consultation with the Minister and after giving thirty days' notice to commercial banks and such specified financial institutions as are affected, by notice prescribe—

Credit
controls
over
specified
financial
institutions
or com-
mercial
banks.18/1973
S. 19.44/1975
S. 4.15/1992
S. 21 (a).15/1992
S. 21 (b) (i)
and (ii).

(a) the maximum or minimum rates of interest, discounts or other charges which such institutions or commercial banks may impose for specified types of loans, advances or other credit;

(b) the maximum or minimum rates of interest which such institutions or commercial banks may pay on deposits; and

(c) the volume, terms and conditions of credit (including instalment credit) which may be extended through loans and advances or investments by such institutions or commercial banks, so, however, that such amounts shall not in respect of each commercial bank or financial institution be less than ninety-five *per centum* of the respective amounts of the loans and advances by that bank or financial institution outstanding at the date of the notice.

15/1992
S. 21(b) (iii).

(2) A notice under subsection (1) shall be published in the *Gazette* and shall state the date on which it shall take effect:

15/1992
S. 21 (c).

Provided that, in the case of a notice with reference to paragraph (c) of subsection (1), the date on which such notice takes effect—

- (a) for the purpose of any reduction in the volume, terms and conditions of credit which commercial banks and specified financial institutions may extend through loans and advances or investments, shall not be less than ninety days after the date on which the notice was issued; and
- (b) for any other purpose, shall not be less than thirty days after the date referred to in paragraph (a)

44/1975
S. 4.

(3) The power conferred by subsection (1) may be exercised—

- (a) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of case;
- (b) so as to make, as respects the cases to which it is exercised—
 - (i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise);
 - (ii) the same provision for all cases in relation to which the power is exercised or different provisions for different cases or classes of case, or different provisions as respects the same case or class of case for different purposes;
 - (iii) any such provision either unconditionally or subject to any specified condition.

8/1989
S. 3.
15/1992
S. 21 (d) (i).
15/1992
S. 21 (d) (ii).

(4) Where a specified financial institution or commercial bank on any day fails to comply with the provisions of a notice under subsection (1) (c), that specified financial institution or commercial bank shall pay to the Bank in respect of that date interest calculated at a daily rate of one-sixth of one per cent (or such other rate as the Minister may, by order, approve) on the sum by which the amount of loans and advances (including instalment credit) outstanding on

that day exceeds the amount specified in the notice.

15/1992
S. 21 (d) (iii).

33A. [*Repealed by Act 15 of 1992.*]

34.—(1) The Bank may from time to time—

Power of
Bank to
fix maxi-
mum
foreign
currency
balances.
18/1973
S. 19.
15/1992
S. 23 (a).

(a) by instrument in writing fix, or prescribe the manner of determination of, the maximum amount of the working balances which commercial banks and specified financial institutions may hold in foreign currencies generally or in any specified foreign currency or currencies;

(b) require commercial banks and specified financial institutions to exchange with the Bank all or any specified part of the surpluses in excess of such maximum amount for an equivalent amount of Jamaican currency.

15/1992
S. 23 (a).

(2) The Bank may by instrument in writing and subject to such terms and conditions as it may deem fit, permit any commercial bank or specified financial institution to hold working balances in any specified foreign currency in excess of such maximum amount fixed or determined for such currency under subsection (1).

15/1992
S.23 (b).

(3) In ascertaining whether the working balances of any commercial bank or specified financial institution in any foreign currency or currencies are in excess of the maximum amount fixed or determined under subsection (1) there may be deducted from such balances the liabilities in foreign currencies into which such currency or currencies are convertible.

15/1992
S. 23 (b).

PART VA. *Supervision and Examination of Banks and Specified Financial Institutions*

15/1992
S. 24.

34A.—(1) There shall be established for the purposes of this Act, a department in the Bank to be called the Department of Supervision of Banks and Financial Institutions.

Supervisory
Depart-
ment.

(2) The Department shall be charged with the

supervision and periodic examination of all commercial banks and specified financial institutions.

Appoint-
ment to
Supervisory
Department.

34B.—(1) For the purposes of section 34A the Board, with the approval of the Minister, shall appoint—

- (a) fit and proper persons to be the Supervisor and Deputy Supervisor, respectively;
- (b) such other officers and employees as may be necessary for the efficient operation of the Supervisory Department.

(2) The Deputy Supervisor shall, subject to any directions from the Supervisor—

- (a) be responsible for the general administration of the Supervisory Department; and
- (b) perform such duties relating to the supervision and examination of commercial banks and specified financial institutions as may be assigned to him by the Supervisor.

(3) The Supervisor, Deputy Supervisor and any officer appointed pursuant to subsection (1) (b) shall be fully employed in the service of the Bank and, while holding office, shall not, without the permission of the Minister, occupy another office of employment whether remunerated or not.

(4) The Supervisor with the approval of the Minister may, where the circumstances so warrant, in writing authorize any other person to assist the Supervisor and the Deputy Supervisor in the performance of their functions under this Act.

Disclosure
of interest
in the bank.

34C.—(1) Where—

- (a) any authorized officer; or
- (b) any person being considered for appointment pursuant to section 34B (1) and (4),

is a shareholder (whether directly or indirectly) in any com-

mercial bank or specified financial institution he shall notify the Minister thereof in writing.

(2) The Minister may, if he thinks fit upon receipt of a notice referred to in subsection (1), in writing require the officer or person concerned to dispose of any shares held by him in any commercial bank or specified financial institution or of any interest in such shares within such time as the Minister may specify.

34D.—(1) An authorized officer and any other person authorized pursuant to section 34B (4) to give assistance shall not—

Secrecy of
authorized
officer.

- (a) disclose information regarding the operations of any commercial bank or specified financial institution to any person other than—
- (i) the Minister or his nominee;
 - (ii) the Governor, Senior Deputy Governor or Deputy Governors;
 - (iii) any officer of the Supervisory Department;
 - (iv) the Chief Executive Officer of the Jamaica Deposit Insurance Corporation, the Executive Director of the Financial Services Commission, the Financial Secretary or his nominee or the Solicitor General, to facilitate coordination among financial regulatory agencies;
 - (v) any Supervisory authorities in a country in which a branch, subsidiary or representative office of a commercial bank or specified financial institution is located;
- (b) disclose other than for the purposes of this Act, the Banking Act, or the Financial Institutions Act, any information regarding the affairs of a customer of a commercial bank or specified financial institution,

10/2001
S. 2.

7/2005
S. 3(a).

obtained in consequence of the performance of duties under this Act.

7/2005
S. 3(b).

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding three million dollars or to imprisonment for a term not exceeding two years, or on conviction in the Supreme Court to a fine or imprisonment.

7/2005
S. 3(c).

(3) Subject to subsection (5), the Bank may disclose to an overseas regulatory authority information necessary to enable that authority to exercise regulatory functions including the conduct of civil or administrative investigations and proceedings to enforce laws, regulations and rules administered by that authority.

7/2005
S. 3(c).

(4) The Bank may decline to exercise its powers under subsection (3) unless the overseas regulatory authority undertakes to make such contribution towards the costs of the exercise as the Bank considers appropriate.

7/2005
S. 3(c).

(5) Nothing in subsection (3) authorizes a disclosure by the Bank unless—

- (a) the Bank has satisfied itself that the overseas regulatory authority is subject to adequate legal restrictions on further disclosures, including the provision to the Bank of—
 - (i) an undertaking of confidentiality on the part of the authority; or
 - (ii) an undertaking by the authority not to disclose the information provided without the consent of the Bank;
- (b) the Bank is satisfied that the assistance requested by the overseas regulatory authority is required for the purposes of that authority's regulatory functions, including the conduct of civil or administrative investigations or proceedings to enforce laws administered by the authority; and

(c) the Bank is satisfied that information provided following the exercise of its powers under subsection (3) will not be used—

(i) in criminal proceedings; or

(ii) in civil or administrative proceedings,

against the person providing the information.

(6) Where, in the opinion of the Bank, it appears necessary in relation to any request for assistance received from an overseas regulatory authority to invoke the jurisdiction of a Supreme Court Judge, the Bank shall— 7/2005
S. 3(c).

(a) immediately notify the Attorney General of the particulars of the request; and

(b) send him copies of all documents relating to the request,

and the Attorney General shall be entitled to appear or take part in any proceedings in Jamaica, or in any appeal from such proceedings, arising directly or indirectly from any such request.

(7) Where pursuant to subsection (3), the Bank properly supplies information to a requesting party, the information supplied shall be deemed to be legally and lawfully given under this Act; and every person liable to be proceeded against on the ground that such information was unauthorized or unlawfully given, or was otherwise acting illegally or improperly, for any such reason only, is hereby acquitted, freed, discharged and indemnified as against all persons whatsoever and whomsoever, from liability arising from the supply of that information. 7/2005
S. 3(c).

Indemnity.
2/1995
S. 6.

34E. No liability is incurred by the Bank or any person specified in paragraphs (a) to (d) as a result of anything done by him *bona fide* in the exercise of any power, or the performance of any function or duty, conferred or imposed by or under this Act, that is to say—

- (a) an authorized officer;
- (b) the Minister;
- (c) any person appointed pursuant to section 34B (4);
- (d) any person appointed by the Minister pursuant to regulations made under this Act or pursuant to paragraph 1 (4) of Part D of the Second Schedule to the Banking Act or the Financial Institutions Act, as the case may be, to perform functions and duties in connection with the temporary management of a commercial bank or specified financial institution.

Second
Schedule.

Regulations.
2/1995
S. 6.

34F.—(1) The Minister may, in accordance with the recommendations of the Bank, make regulations prescribing prudential criteria and minimum solvency standards to be complied with by commercial banks and specified financial institutions.

(2) Without prejudice to the generality of subsection (1), regulations made under that subsection may include provisions in relation to—

- (a) minimum capital requirements;
- (b) requirements for ensuring capital adequacy and the required capital ratios;
- (c) the building of reserves from profits;
- (d) limitations on the acquisition of fixed assets;
- (e) the maintenance of cash reserves and liquid assets;
- (f) the submission of returns to the Supervisor at prescribed intervals and publication of accounts on a regular basis;

- (g) restrictions on—
 - (i) loans to directors, officers and connected persons;
 - (ii) large exposures to single persons and groups;
 - (iii) the volume of equity investments which may be held in the investment portfolio of a commercial bank or specified financial institution;
- (h) requirements for loan loss reserves;
- (i) the transfer of control of specified financial institutions;
- (j) matters regarding the making of contact with auditors by the Bank;
- (k) the establishment of branches abroad by specified financial institutions;
- (l) the treatment of—
 - (i) credit facilities;
 - (ii) assets and investments;
 - (iii) interest;
 - (iv) new financial instruments;
- (m) reporting requirements for large exposures and large deposits;
- (n) the measurement of capital consequent on investment of specified financial institutions in a subsidiary or affiliate;
- (o) the qualification required by auditors of specified financial institutions and the frequency and scope of audits; 17/2002
S. 2 (a).
- (p) measures for the assessment and control of market risks by commercial banks and specified financial institutions; 17/2002
S. 2 (a).

17 2002
S. 2 (a).

- (q) the carrying out of investment activities by commercial banks and specified financial institutions, whether such activity is carried out on the institution's own account or on behalf of its customers;
- (r) the imposition of penalties for breaches of the regulations;
- (s) the taking of such steps as the Minister considers necessary where the Minister has reasonable cause to believe that a specified financial institution is or appears likely to become unable to meet its obligations.

(3) Regulations made under this section shall be subject to affirmative resolution.

(4) The power conferred by subsection (1) may be exercised—

- (a) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of case;
- (b) so as to make, as respects the cases in relation to which it is exercised—
 - (i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise);
 - (ii) the same provision for all cases in relation to which the power is exercised or different provisions for different cases or classes of case, or different provisions as respects the same case or class of case for different purposes;
 - (iii) any such provision either unconditionally or subject to any specified condition.

17/2002
S. 2 (b).

(5) Notwithstanding section 29 of the Interpretation Act, regulations made under this section may provide for the

imposition of penalties on summary conviction in a Resident Magistrate's Court not exceeding a fine of two million dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

PART VI. *Relations with the Government*

35.—(1) The Bank may act as banker to the Government and shall be entrusted with such Government banking business in Jamaica and abroad as may be assigned to it by the Minister.

Power of Bank to act as banker to the Government, public corporations and local authorities.
15/1992
S. 25 (a).
15/1992
S. 25 (b).

(2) The Bank may act as banker to any public corporation or local authority and may be entrusted with such banking business in relation to any such corporation or authority and on such terms and conditions as may be agreed between the Bank and that corporation or authority.

(3) In subsection (2)—

15/1992
S. 25 (b).

“public corporation” means—

- (a) a statutory body or authority;
- (b) a company registered under the Companies Act, being a company in which the Government or an agency of Government, whether by the holding of shares or by other financial input, is in a position to influence the policy of the company;

“local authority” means—

- (a) in relation to the parishes of Kingston and St. Andrew, the Council of the Kingston and St. Andrew Corporation as constituted under the Kingston and St. Andrew Corporation Act;
- (b) in relation to any other parish, the Parish Council of that parish.

36.—(1) The Bank may in any financial year make temporary advances to the Government which shall—

Advances to the Government
33/1976
S. 2.

- (a) not exceed in the aggregate thirty *per centum* of the estimated revenue of Jamaica for that financial year; and
- (b) be repaid not later than three months after the end of that financial year.

(2) Where such advances are not duly repaid the power of the Bank to grant further advances in any subsequent financial year shall not be exercisable unless and until the outstanding advances have been repaid.

(3) For the purpose of this section and section 37 “financial year” means the financial year of the Government.

10/1977
S. 7.

Limitation on
power of Bank
to purchase
securities
issued or
guaranteed by
the Govern-
ment.
10/1977
S. 8.
15 1992
S. 26.
Management
of the public
debt.

37. The Bank shall not in any financial year purchase or otherwise acquire, on a primary issue, securities issued or guaranteed by the Government of a nominal value exceeding forty *per centum* of the estimated expenditure of the Government in that financial year, or such other percentage as the House of Representatives may from time to time by resolution approve.

38. The Bank shall, at the request of the Minister and subject to such terms and conditions as may be agreed between the Minister and the Bank, act as agent for the Government in the payment of interest and principal and generally in respect of the management of the public debt of Jamaica.

Power of Bank
to act as
Registrar for
loans to local
authorities.
37/1964
S. 14.

39. Where regulations made under the Loans (Local Authorities) Act provide for a Registrar in relation to registered stock issued pursuant to that Act, the Bank may, at the request of the Minister perform the functions of such Registrar.

Power of Bank
to act as agent
for the
Government.

40. The Bank may act generally as agent for the Government where it can do so appropriately and consistently with its functions under this Act.

Power of
Minister to
give general
directions.

41. The Minister may from time to time after consultation with the Governor give to the Bank in writing such directions of a general nature as appear to the Minister to be necessary in the public interest, including without prejudice to the generality of the foregoing provisions directions to review the state of credit in any sector of the economy and either to make recommendations for improving the supply of credit or to take steps to foster the provision of credit to that sector of the economy.

PART VIA. *Depository of Securities*

41A.—(1) The Bank may establish, operate or participate in, a depository of securities or other instruments.

Depository
of securities
and other
instruments.
2/2010
S. 3.

(2) For the purposes of subsection (1), the Bank may—

- (a) enter into agreements with depositories of securities or of other instruments and carry out transactions under the terms of those agreements as may be necessary for the settlement of transactions between members of those depositories and the members of any depository operated by the Bank; and
- (b) make rules and guidelines for the operation of the depository.

(3) Any depository of securities or other instruments operated by the Bank without legislative authority before the date of commencement of the Government Securities Dematerialization Act is hereby declared to have been validly and lawfully operated and the Bank and all officers and agents thereof are hereby indemnified from any legal action arising due to the establishment of, operation of, and participation in such depository.

PART VII. *Accounts and Reports*

42. The financial year of the Bank shall end on the thirty-first day of December.

Bank's
financial
year.

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

Accounts
and audit.

(2) Without prejudice to the provisions of subsection (1) the Minister may at any time require the Auditor-General to examine and report on the accounts of the Bank as a whole or any aspect of the Bank's operations and the Bank shall provide the Auditor-General with all necessary and proper facilities for such an examination.

Reports.

44.—(1) The Bank shall, within three months after the end of each financial year, cause to be made and transmit to the Minister—

- (a) a report dealing generally with the operations of the Bank during the last preceding financial year; and
- (b) a copy of the annual statement of accounts of the Bank certified by the auditors.

(2) The Minister shall as soon as possible after their receipt—

- (a) cause a copy of the report together with the annual statement of accounts and the auditors' report thereon to be laid before each House of Parliament; and
- (b) cause a copy of the annual statement of accounts to be published in the *Gazette*;

37/1964
S. 15.

(3) The Bank shall as soon as practicable after the close of business on the second and fourth Wednesday in each month cause to be made and published in the *Gazette* and transmit to the Minister a statement showing its assets and liabilities at the close of business on that day.

Power to
make by-laws.

45. The Board may with the approval of the Minister make under the seal of the Bank by-laws for the good order and management of the Bank.

46. [*Deleted by Act 28 of 2003, S. 2.*]

Secrecy.

47.—(1) Except in so far as may be necessary for the due performance of his functions under this Act, every officer and servant of the Bank shall preserve and aid in preserving secrecy with regard to all matters relating to the affairs of any commercial bank, or of any customer of any such bank, that may come to his knowledge in the course of his duties; and any such officer or servant who communicates any such matter to any person other than the Board or an officer

of the Bank authorized in that behalf by the Governor or suffers or permits any unauthorized person to have access to any books, papers or other records relating to any commercial bank, or to any customer of any such bank, shall be guilty of an offence and shall be liable on conviction thereof to a fine of three million dollars or to imprisonment with or without hard labour for a term not exceeding two years.

15/1992
S. 28(a).
7/2005
S. 4.

(2) No officer or servant of the Bank shall be required to produce in any court any book or document or to divulge or communicate to any court any matter or thing coming under his notice in the performance of his duties under this Act, except on the direction of the court or in so far as may be necessary for the purpose of carrying into effect the provisions of this Act.

(3) Every officer and servant of the Bank and every auditor of the Bank—

15/1992
S. 28 (b).

(a) shall preserve and aid in preserving secrecy with regard to all matters relating to the affairs of the Bank that may come to his knowledge in the course of his duties; and

(b) shall not communicate any such matter to any person other than a person authorized in that behalf by the Minister or the Governor.

(4) Any officer, servant or auditor of the Bank who contravenes subsection (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding three million dollars or to imprisonment for a term not exceeding two years.

7/2005
S. 4.

48. Any director, officer or auditor of the Bank who verifies any statement, account or report required to be furnished to the Minister pursuant to this Act, or who is concerned with delivering or transmitting the same to the Minister, knowing the same to be false in a material particular shall be guilty of an offence and liable—

Verifying
false state-
ment,
account or
list.

15/1992
S. 29(a).

- (a) on summary conviction before a Resident Magistrate to a fine not exceeding fifty thousand dollars or to imprisonment with or without hard labour for a term not exceeding two years;
- (b) on conviction before a Circuit Court to a fine or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

Transmitting
false state-
ment.
18/1973
S. 22.
15/1992
S. 29(a).

49. Any person who transmits or is concerned with transmitting any statement to the Bank pursuant to this Act knowing the same to be false in a material particular shall be guilty of an offence and liable—

- (a) on summary conviction before a Resident Magistrate to a fine not exceeding fifty thousand dollars or to imprisonment with or without hard labour for a term not exceeding two years;
- (b) on conviction before a Circuit Court to a fine or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

Trial of
offences.

15/1992
S. 29(b).

50. Every offence under this Act may be tried summarily before a Resident Magistrate, so, however, that the maximum penalty which may be imposed on a person summarily convicted shall be a fine of fifty thousand dollars or imprisonment with or without hard labour for a term of two years.

Service of
notice.

51. Every notice under this Act by the Bank may be served by registered post.

Transitional.
Cap. 88
1953 Edtn.
(Repealed).
Cap. 89
1953 Edtn.
(Repealed).

52. All currency notes issued under the Currency Notes Law and Jamaica coins within the meaning of the Currency, Coinage and Legal Tender Law which have not been called in or demonetized under either of those Laws shall be deemed for all purposes to be notes and coins issued by the Bank under this Act.

SCHEDULE

(Section 6)

1. The term of office of every director shall be specified in the instrument appointing him and—
- (a) for the Governor, Senior Deputy Governor and Deputy Governors shall not exceed five years;
- (b) for every other director shall not exceed three years,
- but any director retiring on the expiration of his term of office shall, subject to paragraph 2, be eligible for reappointment.
2. A person may not be appointed or remain a director who—
- (a) is a member of either House of Parliament;
- (b) is a director, officer or employee of any commercial bank or any specified financial institution;
- (c) is a member of the Kingston and St. Andrew Corporation or of any Parish Council.
3. The Minister may appoint any person who might be appointed a director to act temporarily in the place of any director who is absent or unable to act.
- 4.—(1) Any director other than the Governor may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the Governor and from the date of the receipt by the Minister of such instrument such director shall cease to be a director of the Bank.
- (2) The Governor may at any time resign his office by instrument in writing addressed to the Minister.
5. The Minister may terminate the appointment of any person as Governor, Senior Deputy Governor, Deputy Governor or Director if such person—
- (a) becomes of unsound mind or becomes permanently unable to perform his functions by reason of ill health;
- (b) becomes bankrupt or compounds with, or suspends payment to, his creditors;
- (c) is convicted and sentenced to a term of imprisonment or to death;
- (d) is convicted of any offence involving dishonesty;
- (e) fails to carry out any of the functions conferred or imposed on him under this Act.
6. The names of all members of the Board as first constituted and every change in the membership thereof shall be published in the *Gazette*.
- 7.—(1) The Board shall meet as often as they deem necessary or expedient for the due performance of their functions and of the functions of the Bank (but not less frequently than ten times in each year) and such meetings shall be held at such places, on such days and at such times as the Governor

Tenure of office.

10/1977

S. 9 (a).

15/1992

S. 30 (a).

Disqualification of directors.

15/1992

S. 30 (b).

18/1973

S. 24.

Temporary appointment.

37/1964

S. 16(a).

Resignation.

37/1964

S. 16(b).

Revocation of appointment.

18/1973

S. 24.

15/1992

S. 30 (c).

Publication of membership.

Procedure and meetings.

determines.

15/1992
S. 30 (d)(i).

(2) The Governor, or in the event of his absence or inability to act, the Senior Deputy Governor shall preside at the meetings of the Board.

15/1992
S. 30(d)(ii).

(3) The quorum of the Board shall be four directors, including the person presiding pursuant to sub-paragraph (2), and such person shall have a casting vote where the voting is equal.

(4) The validity of any proceeding of the Board shall not be affected by any vacancy amongst the directors or by any defect in the appointment of a director.

Remuneration of directors.
37/1964
S. 16 (b).

8. There shall be paid to the Governor and the other directors such remuneration, if any (whether by way of salaries or travelling or other allowances), as the Minister may determine.

2/1995
S. 7.

APPENDIX

(Section 22E)

Offences in respect of which liability to conviction may be discharged by payment of fixed penalty

1/2004
S.8(a).

Offence

Fixed Penalty

PART A

1. Purchase of foreign currency in breach of directions given under section 22B, by an exchange bureau operated in a hotel	...	...	\$ 5,000.00
2. Failure to observe limits as to amount of foreign currency to be purchased or sold in any one transaction	...	...	\$10,000.00
3. Failure to display rates at which foreign currency is being purchased or sold	...	...	\$ 5,000.00
4. Failure to remit foreign currency to the Bank in accordance with directions	...	...	\$ 5,000.00
5. Selling less than the prescribed amount of gross purchases of foreign currency to the Bank	...	...	\$10,000.00
6. Holding more than three days' gross purchases of foreign currency	...	...	\$ 5,000.00
7. Failure to keep accounts and records in respect of the business of the exchange bureau separate and apart from any other business in foreign currency carried on by the operator thereof	...	...	\$ 5,000.00
8. Failure to issue or take receipts	...	...	\$ 5,000.00
9. Buying or selling foreign currency at a location other than that approved in the authorization	...	...	\$10,000.00

APPENDIX, *contd.*

<u>Offence</u>	<u>Fixed Penalty</u>
10. Failure to display certificate of authorization ...	\$ 5,000.00
11. Failure to keep proper accounts or to make returns	\$ 5,000.00
12. Failure to allow examination of accounts, etc.	\$ 10,000.00
13. Failure to afford to an authorized officer unimpeded access for the purpose of carrying out any inspection authorized by or under the Act ...	\$ 10,000.00

PART B

1/2004
S. 8 (b).

1. Failure to observe limits as to the amount of cash accepted for transmission out of Jamaica ...	\$100,000.00
2. Failure to keep accounts and records in respect of the remittance business, separate and apart from any other business carried on	\$100,000.00
3. Carrying on the business of a money transfer and remittance agent or agency at a location other than that approved by the Minister	\$ 50,000.00
4. Failure to display certificate of authorization ...	\$ 50,000.00
5. Failure to keep proper accounts or to make returns	\$100,000.00
6. Failure to allow examination of accounts and records	\$100,000.00
7. Failure to allow an authorized officer unimpeded access for the purpose of carrying out any inspection authorized by or under the Act ...	\$100,000.00