

ARRANGEMENT OF SECTIONS

Acts 32 of 1960 | 37 of 1964 | 31 of 1966 | 7 of 1969 Sch. | 12 of 1971 | 22 of 1971 | 18 of 1973 | 44 of 1975 | 33 of 1976 | 10 of 1977 | 17 of 1978 | 21 of 1978 | 15 of 1984 | 4 of 1985 | 8 of 1989 | 32 of 1991 | 11 of 1992 Sch. | 15 of 1992 | 2 of 1995 | 10 of 2001

PART I. *Preliminary*

1. Short title.
2. Interpretation.

PART II. *Constitution*

3. Establishment of Bank of Jamaica.
4. Place of business.
5. General objects of Bank.
6. Board of Directors.
7. Power to appoint officers, agents and servants.

PART III. *Capital and Reserve*

8. Capital of the Bank.
9. General Reserve Fund.

PART IV. *Currency, Coinage and Legal Tender*

10. Currency of the Island.
11. Parity of the Jamaica dollar.
12. Sole right to issue notes and coins.
13. Exemption from stamp duty on notes.
14. Denominations and forms of notes and coins.
15. Legal tender.
16. Demonetization of notes and coins.
17. [*Repealed by Act 15 of 1992.*]
18. Contracts, etc., to be in currency.
19. Functions of Bank in relation to currency.
20. [*Repealed by Act 15 of 1992.*]
21. Revenue assets in relation to currency issue.
22. Power of Minister to make regulations.

PART IVA. *Dealings in Foreign Currency*

- 22A. Foreign currency transactions.
- 22B. Ministerial directions to certain classes of persons.
- 22C. Exemption.
- 22D. Offences.
- 22E. Punishment without prosecution of offences in connection with directions.

22F. Fees.

PART V. *Banking*

23. Powers of the Bank.

24. Restrictions on business of the Bank.

25. Minimum discount and rediscount rates.

26. Bank as bankers' banker.

27. Clearance facilities.

28. Reserve requirements.

28A. Special deposits by commercial bank and financial institution.

29. Power to vary liquid assets requirements.

30. Power of Bank to require information from commercial banks and specified financial institutions.

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 [*Repealed by Act 15 of 1992.*]

32. Local assets ratio.

33. Credit controls over specified financial institutions or commercial banks.

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 [*Repealed by Act 15 of 1992.*]

34. Power of Bank to fix maximum foreign currency balances.

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

34A. Supervisory Department.

34B. Appointment to Supervisory Department.

34C. Disclosure of interest in the bank.

34D. Secrecy of authorized officer.

34E. Indemnity.

34F. Regulations.

PART VI. *Relations with the Government*

35. Power of Bank to act as banker to the Government, public corporations and local authorities.

36. Advances to the Government.

37. Limitation on power of Bank to purchase securities issued or guaranteed by the Government.

38. Management of the public debt.

39. Power of Bank to act as Registrar for loans to local authorities.

40. Power of Bank to act as agent for the Government.

41. Power of Minister to give general directions.

PART VII. *Accounts and Reports*

42. Bank's financial year.

43. Accounts and audit.

44. Reports.

PART VIII. *General*

45. Power to make by-laws.
46. Exemptions from income tax, stamp duty and transfer tax.
47. Secrecy.
48. Verifying false statement, account or list.
49. Transmitting false statement.
50. Trial of offences.
51. Service of notice.

PART IX. *Transitional Provisions*

52. Transitional

SCHEDULE - (Section 6)

APPENDIX - (Section 22E)

PART I. *Preliminary*

1. Short title.

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

2. Interpretation.

2. In this Act unless the context otherwise requires-

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

"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;

"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;

"Bank" means the Bank of Jamaica established under this Act;

"Board" means the Board of Directors of the Bank appointed under section 6;

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

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

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

"Deputy Supervisor" means the Deputy Supervisor of Banks and Financial Institutions appointed

under section 34B;

"financial year" means the financial year of the Bank;

"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;

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

"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;

"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;

"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;"

"Senior Deputy Governor" means a Senior Deputy Governor of the Bank appointed pursuant to section 6;

"specified financial institution" means a person or undertaking (not being a commercial bank) -

(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;

"Supervisory Department" means the Department of Supervision of Banks and Financial Institutions established under Part VA.

PART II. Constitution

3. Establishment of Bank of Jamaica.

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

(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.

4. 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.

5. General objects of Bank. Cases

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.

6. 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.

(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.

(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.

(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.

(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.

(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-

(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.

7. 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.

(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.

(3) The GovernorGeneral 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.

(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.

(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.

(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*

8. 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.

9. General Reserve Fund.

9. (1) The Bank shall establish and maintain a 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

(b) upon which shall be charged any net losses of the Bank at the end of any financial year.

(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.

(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-

(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.

(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*

10. Currency of the Island.

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 onehundredth part of a dollar.

11. Parity of the Jamaica dollar.

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.

12. Sole right to issue notes and coins.

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

(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-

(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. Exemption from stamp duty on notes.

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

14. Denominations and forms of notes and coins.

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

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

(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.

(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.

15. Legal tender.

15. (1) Subject to the provisions of subsection (2) and of section 16, a tender of payment of money if made in any of the following respective notes and coins shall be legal tender-

(a) in the case of notes, for the payment of any amount;

(b) subject to paragraph (e) in the case of coins of a denomination of not less than one

dollar, for the payment of an amount not exceeding twenty dollars;

- (c) in the case of coins of a denomination of less than one dollar but not less than five cents, for the payment of an amount not exceeding five dollars;
- (d) in the case of coins of a denomination of less than five cents, for the payment of an amount not exceeding twenty cents; and
- (e) in the case of coins of a denomination exceeding twenty dollars for the amount of the face value.

(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.

16. Demonetization 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.

17. [Repealed by Act 15 of 1992]

17. [Repealed by Act 15 of 1992]

18. Contracts, etc., to be in currency.

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.

19. 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, reissue 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.]

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

21. Revenue assets in relation to currency issue.

21. (1) The Bank shall hold assets of an amount in relation to 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.]*

(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. Power of Minister to make regulations.

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

- (a) prescribing anything required to be prescribed under this Part or paragraph (b) 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

22A. Foreign currency transaction.

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.

Cases

(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.

22B. 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,

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, 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.

(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 and references in this Part shall be construed accordingly.

(6) Any document stating that any direction is given under any of the provisions of this Part by the Minister, and purporting to be signed on his behalf, shall be evidence of the facts stated in the document.

(7) In this section "foreign assets" includes-

- (a) foreign currency;
- (b) foreign currency instruments;

- (c) real estate situated outside of Jamaica;
- (d) foreign securities;
- (c) any other assets located outside of Jamaica.

22C. Exemption.

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 and such exemption may be either absolute or conditional.

22D. Offences.

22D. (1) Any person who contravenes any provisions of this Part or fails to comply with any requirement imposed by or under this Part 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 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.

(3) No proceedings for an offence punishable under this Part 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.

22E. Punishment without prosecutions of offences in connection with directions.

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; and

(b) specified in the Appendix.

(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.

(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 Taxes to furnish to the Bank, information with regard to any payment pursuant to a notice under this section;

(b) amend the Appendix."

22F. Fees

22F. A person who, with the approval of the Minister, operates an exchange bureau shall pay, in respect of such operation, such annual fee as the Bank, with the approval of the Minister, may by notice determine.

PART V. *Banking*

23. Powers of the Bank.

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

- (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 rediscount-

Cases

- (i) inland or foreign bills of exchange or promissory notes maturing within two hundred and seventy days of the date of acquisition;

Cases

- (ii) Treasury bills issued by the Government of Jamaica or by any other government;
- (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;
- (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-
 - (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 rediscount by the Bank;
 - (v) warehouse warrants or their equivalent (securing possession of goods) in respect of finished or semifinished 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 subparagraph (iii) or (iv) shall not exceed seventy-five *per centum* of the current market value of that security;

Cases

- (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;**

Cases

- (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;**
- (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;**
- (m) make loans and advances for fixed periods to persons who are in the wholtime service of the Bank for the purpose of facilitating the acquisition by them of housing or motor vehicles;**
- (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;**
- (o) negotiate and maintain lines of credit from financial institutions outside Jamaica;**
- (p) issue standby letters of credit.**

24. Restrictions on business of the Bank.

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

- (a) engage in any trade;
- (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.

(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;

25. 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.

26. 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. Clearance facilities.

27. The Bank may promote the establishment of bank clearing systems and provide facilities for the clearance and settlement of transactions between commercial banks.

28. Reserve requirements.

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 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.

(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.

(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 is payable 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*.

(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. Special deposits by commercial bank and financial institution.

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 *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 in 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 onesixth 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. Power to vary liquid assets requirements.

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 maintain 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 sub-section (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 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*.

(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.

(5) 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.

30. Power of Bank to require information from commercial banks and specified financial institutions.

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.

(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].

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

32. Local assets ratio.

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.

33. Credit controls over specified financial institutions.

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-

- (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.

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

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).

(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.

(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.

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

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

34. Power of Bank to fix maximum foreign currency balances.

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

- (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.

(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).

(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.

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

34A. Supervisory Department.

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.

(2) The Department shall be charged with the supervision and periodic examination of all commercial banks and specified financial institutions.

34B. Appointment 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.

34C. 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 commercial 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. Secrecy of authorized officer.

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

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

(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 fifty thousand dollars or to imprisonment for a term not exceeding two years, or on conviction in the Supreme Court to a fine or imprisonment.

34E. Indemnity

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 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.

34F. Regulations. Cases

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 section 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) restriction 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 imposition of penalties for breaches of the regulations;
- (p) 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.

35. Power of Bank to act as banker to 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.

(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)-

"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. Advances to the Government.

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

- (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.

37. Limitation on power of Bank to purchase securities issued or guaranteed by the Government.

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. Management of the public debt.

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.

39. Power of Bank to act as Registrar for loans to local authorities.

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.

40. 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.

41. 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 VII. *Accounts and Reports*

42. Bank's financial year.

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

43. Accounts and audit.

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

(2) Without prejudice to the provisions of subsection (1) the Minister may at any time require the AuditorGeneral 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 AuditorGeneral with all necessary and proper facilities for such an examination.

44. 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*.

(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.

PART VIII. *General*

45. Power to make bylaws.

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

46. Exemption from income tax, stamp duty and transfer tax.

46. (1) The income of the Bank shall be exempt from income tax.

(2) The Bank shall be exempt from any portion of stamp duty payable by the Bank in respect of instruments executed by or on behalf of the Bank.

(3) There shall be exempt from taxation under the Transfer Tax Act any transfer by the Bank of property belonging to it or of any right or interest created in, over or otherwise with respect to any such property.

47. 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 fifty thousand dollars or to imprisonment with or without hard labour for a term not exceeding two years.

(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-

(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 fifty thousand dollars or to imprisonment for a term not exceeding two years.

48. Verifying false statement, account or list.

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-

(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.

49. Transmitting false statement.

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 both such fine and imprisonment.

50. Trial of offences.

50. Every offence under this Act may be tried summarily before a Resident Magistrate, so, however, that the offences 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.

51. Service of notice.

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

52. Transitional.

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 of 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 determines.

(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.

(3) The quorum of the Board shall be four directors, including the person presiding pursuant to subparagraph (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.

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.

APPENDIX (Section 22E)

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

<u>Offence</u>	<u>Fixed Penalty</u>
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
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

JAMAICA

No. 17-2002

I assent,

[L.S.]

H. F. COOKE,
Governor-General.

28th day of March, 2002.

AN ACT to Amend the Bank of Jamaica Act.

[28th March, 2002]

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

1. This Act may be cited as the Bank of Jamaica (Amendment) Act, 2002, and shall be read and construed as one with the Bank of Jamaica Act (hereinafter referred to as the principal Act) and all amendments thereto.

Short title
and con-
struction.

2. Section 34F of the principal Act is amended—

(a) in subsection (2) by re-lettering paragraphs (o) and (p) as paragraphs (r) and (s) and inserting next after paragraph (n) the following as paragraphs (o), (p) and (q)—

Amend-
ment of
section 34F
of principal
Act.

“ (o) the qualification required by auditors of specified financial institutions and the frequency and scope of audits; ”

- (p) measures for the assessment and control of market risks by commercial banks and specified financial institutions;
 - (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;";
- (b) by inserting next after subsection (4) the following as subsection (5)—

“ (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.”.