



BRITISH INDIAN OCEAN TERRITORY

**REVISED ORDINANCES OF THE
BRITISH INDIAN OCEAN TERRITORY**

THE BANKING ORDINANCE 1984

CHAPTER G.7

Revised Edition

Showing the law as at 1 September 2020

Published by Authority

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This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Law Revision Ordinance 2015 and contains:

The Banking Ordinance 1984 - Ordinance No.10 of 1984

As amended by:

The Banking (Amendment) Ordinance 2017 – Ordinance No.3 of 2017

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TERRITORY**

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THE BANKING ORDINANCE 1984

CHAPTER G.7

An Ordinance to regulate banking business in the British Indian Ocean Territory and to provide for other matters related thereto.

Citation.

1. This Ordinance may be cited as the Banking Ordinance 1984, ROBIOT c.G.7.

Definitions.

2. In this Ordinance unless the context otherwise requires –

banking business means the business of accepting deposits of money which may be withdrawn or repaid on demand or after a fixed period or after notice and the employment of those deposits in whole or in part by lending or any other means for the account and at the risk of the person accepting such deposits;

bank means any person carrying on banking business;

person includes a body of persons;

licensed means licensed under this Ordinance to conduct banking business.

The general prohibition.

3. (1) No bank may carry on banking business in the Territory, unless it –
 - (a) holds a licence issued pursuant to section 5, or
 - (b) is exempt from the requirement to hold a licence, by order issued pursuant to section 13.

(2) The prohibition is referred to in this Ordinance as the general prohibition.

Application for licence.

4. (1) Any bank desirous of commencing banking business in the Territory after the date on which this Ordinance comes into operation shall apply to the Commissioner for –

- (a) a licence, or
- (b) an exemption order.

(2) An application for a licence under this Ordinance shall be made to the Commissioner in such form and in such manner as may be specified by the Commissioner, and shall be accompanied by a copy of the memorandum and articles of association or of any other instrument under which the bank is incorporated and such other information as the Commissioner may require.

Granting and revocation of licence.

5. (1) Subject to the provisions of this Ordinance, the Commissioner may, at his discretion, grant a licence in respect of which application has been made under section 4 of this Ordinance, or he may refuse to grant a licence and need not give any reason for so refusing.

(2) The Commissioner shall grant a licence only in respect of a branch of a bank incorporated outside the Territory.

(3) The Commissioner may at any time revoke a licence –

- (a) for any contravention of this Ordinance or Regulations made thereunder;
- (b) if in the opinion of the Commissioner the licensed bank concerned has contravened or failed to comply with any condition of its licence or has failed to take the steps required by the Commissioner under the terms of section 12(2) of this Ordinance;
- (c) if in the opinion of the Commissioner the licensed bank concerned is carrying on business in the Territory in a manner detrimental to the public interest or the interests of its depositors or other creditors;
- (d) if in the opinion of the Commissioner the licensed bank concerned has ceased to carry on banking business in the Territory; or
- (e) if the licensed bank concerned goes into liquidation or is wound up or otherwise dissolved.

(4) Before revoking a licence under subsection (3) of this section the Commissioner shall give the bank concerned notice in writing of his intention to do so specifying therein the grounds on which he proposes to revoke the licence and shall afford that bank an opportunity of submitting to him a written statement of objections to the revocation of the licence, and thereafter the Commissioner shall advise the bank of his decision in the matter.

Minimum capital of a bank.

6. A licence shall not be granted to a bank unless the aggregate of its capital issued and paid up in cash and outstanding and its unimpaired reserves is not less than £5,000,000.

Conditions of licences.

7. (1) In granting an application for a licence, the Commissioner shall specify, as conditions in respect of the licence –

(a) the name under which the licensee shall carry on the business authorised by the licence; and

(b) the places in which the business authorised by the licence may be carried on by the licensee.

(2) In granting an application, the Commissioner may specify such other conditions in respect of the licence as he thinks fit for the purposes of this Ordinance, including (but without limitation of the generality of this section) conditions as to all or any of the following matters –

(a) any condition restricting the extent to which the licensee may accept deposits, grant credit or make investments;

(b) any condition restricting the classes of person from whom the licensee may solicit deposits;

(c) any condition restricting the period of duration of the licence.

Duration of licences.

8. Subject to the other provisions of this Ordinance, a licence shall remain in force until –

(a) the expiry of any period of duration specified in the licence itself;

(b) it is surrendered by the Licensee; or

(c) it is revoked,

whichever event occurs first.

Variation of licences.

9. (1) The Commissioner may at any time, at his own discretion or on the application of the licensee, vary a licence by amending, adding or revoking any condition in respect of a licence.

(2) Before varying a licence under subsection (1) of this section (otherwise than on the application of the licensee) the Commissioner shall give the licensee a reasonable opportunity to make representations on the proposed variation.

Restriction on use of title “bank”.

10. (1) Subject to section 13, no person other than a licensed bank shall use the word **bank** or any of its derivatives in any language in the description or title under which such person is carrying on business in the Territory, or make any such representation in any billhead, letter, paper, notice, advertisement or in any other manner whatsoever:

Provided that nothing in this subsection shall apply to an association of banks or bank employees, formed for the protection of their common interests.

(2) Every licensed bank carrying on business in the Territory, shall use as part of its description or title the word **bank** or one or more of its derivatives in the English language.

Returns.

11. (1) Subject to subsection (2) of this section, every licensed bank shall in relation to its operations in the Territory submit to the Commissioner annually and not later than twenty-one days after the last day of the financial year to which it relates, a statement of assets and liabilities accompanied by statements –

(a) showing the amounts of all outstanding unsecured credit facilities; and

(b) giving an analysis of customers’ liabilities to the bank in respect of loans, advances and other assets of the bank.

(2) Subject to subsection (3) of this section, the Commissioner may require a licensed bank to submit such further information as he may deem necessary for the proper understanding of any statement or return furnished by that bank under subsection (1) of this section and such information shall be submitted within such period and in such manner as the Commissioner may require.

(3) No statement, return or information shall be required under subsection (1) of this section with respect to the affairs of any particular customer of a licensed bank.

Powers of the Commissioner.

12. (1) The Commissioner may at his discretion from time to time appoint one or more qualified persons to make an examination under conditions of secrecy of the books and affairs of any licensed bank.

(2) If, in the opinion of the Commissioner, an examination under subsection (1) of this section shows that a licensed bank is carrying on its business in a manner detrimental to the public interest, or to the interests of its depositors or other creditors or is contravening the provisions of this Ordinance or Regulations made thereunder, the Commissioner may require the licensed bank forthwith to take such steps, at its own expense, as he may consider necessary to rectify the matter or may make an order under section 5(3) of this Ordinance revoking the licence of such licensed bank and requiring its business in the Territory to be wound up.

Exemption.

13. (1) The Commissioner may by order (an **exemption order**) provide for a bank to be exempt from –

- (a) the general prohibition, as specified in section 3(1);
- (b) the restriction contained in section 10(1).

(2) An exemption order may provide for an exemption to have effect –

- (a) only in specified circumstances;
- (b) subject to conditions.

(3) **Specified** means specified by the exemption order.

Regulations.

14. The Commissioner may make such Regulations as may be necessary for the purpose of carrying into effect the provisions of this Ordinance.

