



# Banking Act 1987 (repealed)

## 1987 CHAPTER 22

### PART IV

#### OVERSEAS INSTITUTIONS WITH REPRESENTATIVE OFFICES

#### 74 **Meaning of “overseas institution” and “representative office”.**

- (1) In this Part of this Act “overseas institution” means a person (other than an authorised institution or any person for the time being specified in Schedule 2 to this Act) who—
  - (a) is a body corporate incorporated in a country or territory outside the United Kingdom or a partnership or other unincorporated association formed under the law of such a country or territory; or
  - (b) has his principal place of business in such a country or territory,being, in either case, a person who satisfies one of the conditions mentioned in subsection (2) below.
- (2) The conditions referred to in subsection (1) above are—
  - (a) that the person’s principal place of business is outside the United Kingdom and the person is authorised by the relevant supervisory authority in a country or territory outside the United Kingdom;
  - (b) that the person describes himself or holds himself out as being authorised by such an authority in a country or territory outside the United Kingdom;
  - (c) that the person uses any name or in any other way so describes himself or holds himself out as to indicate or reasonably be understood to indicate (whether in English or any other language), that he is a bank or banker or is carrying on a banking business (whether in the United Kingdom or elsewhere).
- (3) In this Part of this Act “representative office”, in relation to any overseas institution, means premises from which the deposit-taking, lending or other financial or banking activities of the overseas institution are promoted or assisted in any way; and “establishment”, in relation to such an office, includes the making of any arrangements by virtue of which such activities are promoted or assisted from it.

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**Modifications etc. (not altering text)**

C1 S. 74 amended (1.1.1993) by S.I. 1992/3218, reg. 47, Sch. 8 para.21.

**75 Notice of establishment of representative office.**

- (1) An overseas institution shall not establish a representative office in the United Kingdom unless it has given not less than two months' notice to the Bank that it proposes to establish such an office and a notice under this subsection shall specify—
  - (a) any name the institution proposes to use in relation to activities conducted by it in the United Kingdom after the establishment of that office; and
  - (b) in the case of an institution which will be obliged to disclose any name in connection with those activities by virtue of section 4 of the Business Names Act 1985 or Article 6 of the Business Names (Northern Ireland) Order 1986, that name.
- (2) Where an overseas institution has established a representative office in the United Kingdom before the date on which this Part of this Act comes into force and has not given notice of that fact to the Bank under section 40 of the Banking Act 1979 it shall give notice in writing to the Bank of the continued existence of that office within the period of two months beginning with that date; and the obligation of an overseas institution to give notice under this subsection in respect of the establishment of an office established within the period of one month ending with that date shall supersede any obligation to give notice in respect of that matter under that section.
- (3) A notice under this section shall be given in such manner and form as the Bank may specify.

**76 Power to object to names of overseas institutions.**

- (1) An overseas institution which has established a representative office in the United Kingdom shall not change any name used by it in relation to activities conducted by it in the United Kingdom or, in the case of an institution which is obliged to disclose any name in connection with those activities as mentioned in section 75(1) above, that name unless it has given not less than two months' notice to the Bank of the proposed name.
- (2) Where notice of a name is given to the Bank by an overseas institution under section 75(1) or subsection (1) above and it appears to the Bank that the name is misleading to the public or otherwise undesirable it may, within the period of two months beginning with the day on which that notice was given, give notice in writing to the institution that it objects to that name.
- (3) Where it appears to the Bank that an overseas institution which has established a representative office in the United Kingdom before the date on which this Part of this Act comes into force is using a name in relation to activities conducted by it in the United Kingdom which is misleading to the public or otherwise undesirable, the Bank may give notice in writing to the institution that it objects to the name—
  - (a) in a case where the Bank was notified of the establishment of the representative office before that date, within the period of six months beginning with that date; and

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- (b) otherwise, within the period of six months beginning with the date on which the establishment of the representative office comes to the Bank's knowledge.
- (4) Where, as a result of a material change in circumstances since the time when notice of a name was given to the Bank under section 75(1) or subsection (1) above or as a result of further information becoming available to the Bank since that time, it appears to the Bank that the name is so misleading as to be likely to cause harm to the public, the Bank may give notice in writing to the overseas institution in question that it objects to the name.

## **77 Effect of notices under s. 76 and appeals.**

- (1) Where the Bank has given notice under section 76 above to an overseas institution the institution shall not use the name to which the Bank has objected in relation to activities conducted by it in the United Kingdom after the objection has taken effect; and for the purposes of this subsection the disclosure of a name in connection with those activities as mentioned in section 75(1)(b) above shall be treated (if it would not otherwise be) as use of that name in relation to those activities.
- (2) For the purposes of this section an objection under section 76(2) above takes effect when the institution receives the notice of objection.
- (3) An institution to which a notice of objection is given under section 76(2) above may within the period of three weeks beginning with the day on which it receives the notice apply to the court to set aside the objection and on such an application the court may set it aside or confirm it (but without prejudice to its operation before that time).
- (4) For the purposes of this section an objection under section 76(3) or (4) above takes effect—
  - (a) in a case where no application is made under subsection (5) below, at the expiry of the period of two months beginning with the day on which the institution receives the notice of objection or such longer period as the notice may specify; or
  - (b) where an application is made under subsection (5) below and the court confirms the objection, after such period as the court may specify.
- (5) An institution to which a notice of objection is given under section 76(3) or (4) above may within the period of three weeks beginning with the day on which it receives the notice apply to the court to set aside the objection.
- (6) In this section “the court” means the High Court, the Court of Session or the High Court in Northern Ireland according to whether the representative office of the institution in question is situated in England and Wales, Scotland or Northern Ireland.

## **78 Registration of substitute corporate name by overseas institution.**

- (1) Where the Bank gives notice under section 76 above objecting to the corporate name of an overseas institution, subsection (4) of section 694 of the Companies Act 1985 or, in Northern Ireland, paragraph (4) of Article 644 of the Companies (Northern Ireland) Order 1986 shall apply, subject to subsection (2) below, as it applies where a notice is served on a company under subsection (1) or (2) of that section or, as the case may be, paragraph (1) or (2) of that Article.

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- (2) No statement or further statement may be delivered under subsection (4) of section 694 or paragraph (4) of Article 644 by virtue of subsection (1) above unless the Bank has signified that it does not object to the name specified in the statement.
- (3) Section 76(1) above shall not apply to a change of a name which has been registered under section 694(4) of the Companies Act 1985 or Article 644(4) of the Companies (Northern Ireland) Order 1986 by virtue of subsection (1) above.

**79 Duty to provide information and documents. E+W+S**

- (1) The Bank may by notice in writing require any overseas institution which has established a representative office in the United Kingdom or has given notice to the Bank under section 75(1) above of its intention to establish such an office to provide the Bank with such information or documents as the Bank may reasonably require.
- (2) Without prejudice to the generality of subsection (1) above, the Bank may by notice in writing require such an overseas institution to deliver to the Bank—
  - (a) in the case of an overseas institution which is a company incorporated in the United Kingdom, copies of the documents which the company is required to send to the registrar of companies under section 10 of the Companies Act 1985 or Article 21 of the Companies (Northern Ireland) Order 1986;
    - [<sup>F1</sup>(aa) in the case of an overseas institution to which section 690A of that Act applies, copies of the documents which it is required to deliver for registration in accordance with paragraph 1(1) or (2) of Schedule 21A of that Act;]
  - (b) in the case of an overseas institution to which section 691(1) of that Act or Article 641(1) of that Order applies, copies of the document which it is required to deliver for registration in accordance with that section or Article;
  - (c) in the case of any other overseas institution (other than an individual), information corresponding to that which would be contained in the documents which it would be required to deliver as mentioned in paragraph (b) above if it were a company to which section 691(1) applied;
  - (d) in the case of an overseas institution which is authorised to take deposits or conduct banking business in a country or territory outside the United Kingdom by the relevant supervisory authority in that country or territory, a certified copy of any certificate from that authority conferring such authorisation on it.
- (3) An overseas institution to which a notice is given under subsection (1) or (2) above shall comply with the notice—
  - (a) in the case of an institution which has established a representative office in the United Kingdom, before the end of such period as is specified in the notice; and
  - (b) in the case of an institution which has given notice under section 75(1) above of its intention to establish such an office, before it establishes the office.
- (4) If at any time an overseas institution which has been required to deliver information or documents to the Bank under subsection (2) above is required to deliver any document or give notice to the registrar of companies under section 18 or 288(2) of the said Act of 1985 or Article 29 or 296(2) of the said Order of 1986, it shall no later than the time by which it must have complied with that requirement deliver a copy of that document or give notice to the Bank.

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- (5) If at any time an overseas institution is required to furnish any document or give notice to the registrar of companies under [F<sup>2</sup>section 692, 695A(3) or 696 of, or paragraph 7 or 8 of Schedule 21A to,] the said Act of 1985 or Article 642 or 646 of the said Order of 1986 (or would be so required if it were a company to which [F<sup>3</sup>that section, paragraph or Article applied]), it shall no later than the time by which it must have complied with that requirement deliver a copy of that document to the Bank.
- (6) If at any time a certificate of authorisation of which a copy was required to be delivered to the Bank under subsection (2)(d) above is amended or the authorisation is withdrawn, the overseas institution shall no later than one month after the amendment or withdrawal deliver a copy of the amended certificate or, as the case may be, a notice stating that the authorisation has been withdrawn to the Bank.
- (7) The Treasury may after consultation with the Bank by order provide that sections 39 and 40 above shall apply in relation to overseas institutions as they apply in relation to authorised institutions; but no order shall be made under this section unless a draft of it has been laid before and approved by a resolution of each House of Parliament.

#### Extent Information

- E1** This version of this provision extends to England, Wales and Scotland; a separate version has been created for Northern Ireland.

#### Textual Amendments

- F1** S. 79(2)(aa) inserted (E.W.S.) (1.1.1993) by S.I. 1992/3179, reg. 4, Sch. 3 para. 10(2).  
**F2** Words in s. 79(5) substituted (E.W.S.) (1.1.1993) by S.I. 1992/3179, reg. 4, Sch. 3 para. 10(3)(a).  
**F3** Words in s. 79(5) substituted (E.W.S.) (1.1.1993) by S.I. 1992/3179, reg. 4, Sch. 3 para. 10(3)(b).

## 79 Duty to provide information and documents. **N.I.**

- (1) The Bank may by notice in writing require any overseas institution which has established a representative office in the United Kingdom or has given notice to the Bank under section 75(1) above of its intention to establish such an office to provide the Bank with such information or documents as the Bank may reasonably require.
- (2) Without prejudice to the generality of subsection (1) above, the Bank may by notice in writing require such an overseas institution to deliver to the Bank—
  - (a) in the case of an overseas institution which is a company incorporated in the United Kingdom, copies of the documents which the company is required to send to the registrar of companies under section 10 of the Companies Act 1985 or Article 21 of the Companies (Northern Ireland) Order 1986;
  - [F<sup>4</sup>(aa) in the case of an overseas institution to which section 690A of that Act or Article 640A of that Order applies, copies of the documents which it is required to deliver for registration in accordance with paragraph 1(1) or (2) of Schedule 21A to that Act or paragraph 1(1) or (2) of Schedule 20A to that Order,]
  - (b) in the case of an overseas institution to which section 691(1) of that Act or Article 641(1) of that Order applies, copies of the document which it is required to deliver for registration in accordance with that section or Article;
  - (c) in the case of any other overseas institution (other than an individual), information corresponding to that which would be contained in the documents

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- which it would be required to deliver as mentioned in paragraph (b) above if it were a company to which section 691(1) applied;
- (d) in the case of an overseas institution which is authorised to take deposits or conduct banking business in a country or territory outside the United Kingdom by the relevant supervisory authority in that country or territory, a certified copy of any certificate from that authority conferring such authorisation on it.
- (3) An overseas institution to which a notice is given under subsection (1) or (2) above shall comply with the notice—
- (a) in the case of an institution which has established a representative office in the United Kingdom, before the end of such period as is specified in the notice; and
- (b) in the case of an institution which has given notice under section 75(1) above of its intention to establish such an office, before it establishes the office.
- (4) If at any time an overseas institution which has been required to deliver information or documents to the Bank under subsection (2) above is required to deliver any document or give notice to the registrar of companies under section 18 or 288(2) of the said Act of 1985 or Article 29 or 296(2) of the said Order of 1986, it shall no later than the time by which it must have complied with that requirement deliver a copy of that document or give notice to the Bank.
- (5) If at any time an overseas institution is required to furnish any document or give notice to the registrar of companies under [<sup>F5</sup>section 692, 695A(3) or 696 of, or paragraph 7 or 8 of Schedule 21A to the said Act of 1985 or Article 642, 645A or 646 of, or paragraph 7 or 8 of Schedule 20A to the said Order of 1986] (or would be so required if it were a company to which [<sup>F6</sup>that section, paragraph or Article applied]), it shall no later than the time by which it must have complied with that requirement deliver a copy of that document to the Bank.
- (6) If at any time a certificate of authorisation of which a copy was required to be delivered to the Bank under subsection (2)(d) above is amended or the authorisation is withdrawn, the overseas institution shall no later than one month after the amendment or withdrawal deliver a copy of the amended certificate or, as the case may be, a notice stating that the authorisation has been withdrawn to the Bank.
- (7) The Treasury may after consultation with the Bank by order provide that sections 39 and 40 above shall apply in relation to overseas institutions as they apply in relation to authorised institutions; but no order shall be made under this section unless a draft of it has been laid before and approved by a resolution of each House of Parliament.

#### Extent Information

- E2** This version of this provision extends to Northern Ireland; a separate version has been created for England, Wales and Scotland.

#### Textual Amendments

- F4** S. 79(2)(aa) inserted (8.6.1993) by S.R. 1993/198, reg. 4, Sch. 3 para. 9(2)
- F5** Words in s. 79(5) substituted (8.6.1993) by S.R. 1993/198, reg. 4, Sch. 3 para. 9(3)(a)
- F6** Words in s. 79(5) substituted (8.6.1993) by S.R. 1993/198, reg. 4, Sch. 3 para. 9(3)(b)

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## **80 Regulations imposing requirements on overseas-based banks.**

- (1) The Treasury may, after consultation with the Bank, by regulations impose on overseas institutions which have established or propose to establish representative offices in the United Kingdom such requirements as the Treasury consider appropriate in connection with those offices and the activities conducted from them.
- (2) Regulations under this section may in particular require the establishment or continued existence of a representative office to be authorised by the Bank and such regulations may make provision for—
  - (a) the granting and revocation of such authorisations;
  - (b) the imposition of conditions in connection with the grant or retention of such authorisations; and
  - (c) appeals against the refusal or withdrawal of such authorisations or the imposition of such conditions.
- (3) No regulations shall be made under this section unless a draft of the regulations has been laid before and approved by a resolution of each House of Parliament.

## **81 Offences under Part IV.**

A person who contravenes any provision in this Part of this Act or any requirement imposed under it shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding the fifth level on the standard scale or to both and, where the contravention involves a public display or exhibition of any name or description, there shall be a fresh contravention on each day on which the person causes or permits the display or exhibition to continue.

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