



Banking Act 1987

1987 CHAPTER 22

PART I

REGULATION OF DEPOSIT-TAKING BUSINESS

Restriction on acceptance of deposits

5 Meaning of "deposit"

- (1) Subject to the provisions of this section, in this Act "deposit" means a sum of money paid on terms—
- (a) under which it will be repaid, with or without interest or a premium, and either on demand or at a time or in circumstances agreed by or on behalf of the person making the payment and the person receiving it; and
 - (b) which are not referable to the provision of property or services or the giving of security;
- and references in this Act to money deposited and to the making of a deposit shall be construed accordingly.
- (2) For the purposes of subsection (1)(b) above, money is paid on terms which are referable to the provision of property or services or to the giving of security if, and only if—
- (a) it is paid by way of advance or part payment under a contract for the sale, hire or other provision of property or services, and is repayable only in the event that the property or services is not or are not in fact sold, hired or otherwise provided;
 - (b) it is paid by way of security for the performance of a contract or by way of security in respect of loss which may result from the non-performance of a contract; or
 - (c) without prejudice to paragraph (b) above, it is paid by way of security for the delivery up or return of any property, whether in a particular state of repair or otherwise.

Status: This is the original version (as it was originally enacted).

- (3) Except so far as any provision of this Act otherwise provides, in this Act "deposit" does not include—
- (a) a sum paid by the Bank or an authorised institution;
 - (b) a sum paid by a person for the time being specified in Schedule 2 to this Act;
 - (c) a sum paid by a person, other than a person within paragraph (a) or (b) above, in the course of carrying on a business consisting wholly or mainly of lending money;
 - (d) a sum which is paid by one company to another at a time when one is a subsidiary of the other or both are subsidiaries of another company or the same individual is a majority or principal shareholder controller of both of them; or
 - (e) a sum which is paid by a person who, at the time when it is paid, is a close relative of the person receiving it or who is, or is a close relative of, a director, controller or manager of that person.
- (4) In the application of paragraph (e) of subsection (3) above to a sum paid by a partnership that paragraph shall have effect as if for the reference to the person paying the sum there were substituted a reference to each of the partners.
- (5) In subsection (3)(e) above "close relative", in relation to any person, means—
- (a) his spouse;
 - (b) his children and step-children, his parents and step-parents, his brothers and sisters and step-brothers and step-sisters; and
 - (c) the spouse of any person within paragraph (b) above.