

THE BANKS AND TRUST COMPANIES ORDINANCE 2000

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THE BANKS AND TRUST COMPANIES ORDINANCE 2000

An Ordinance to provide for the licensing, supervision, regulation and control of banking business and international trust business and for matters connected therewith or incidental thereto.

ENACTED by the Legislature of New Utopia.

1. Short title and Commencement

This Ordinance may be cited as:

The Banks and Trust Companies Ordinance 2000

and shall come into operation on such date as the Board of Governors may, by notice in the Gazette, appoint.

[Gazetted (Date) 2000]

PART I Preliminary

2. Definitions

(1) In this Ordinance, unless the context otherwise requires -

(a) "auditor" means a person who

(i) is qualified as an accountant by examination of, one of the Institutes of Chartered Accountants or Certified Accountants in England and Wales, Ireland or Scotland, the Canadian Institute of Chartered Accountants or the American Institute of Certified Public Accountants; or

(ii) possesses such other qualification in accountancy equivalent to the qualification set forth in paragraph (i) as the Board of Governors may, by order, approve and is in good standing with respect to such qualification;

(b) "authorised agent" means a person so designated by a bank or trust company under section 7(1) (b);

(c) "bank" includes any company whose operations include any form of banking business;

(d) "banking business" means

(i) the business of receiving funds through –

(aa) the acceptance of monetary deposits which are repayable on demand or after notice or any similar operation;

(bb) the sale or replacement of bonds, certificates, notes or other securities and the use of such either in whole or in part for loans or investment at the risk of the customer; and

(ii) any other activity designated by the Board of Governors as customary banking practice and which a company may additionally be authorised to do;

(e) "company" means any company registered under the Companies Act;

(f) "Court" means any court of competent jurisdiction;

(g) "dollar" means the United States dollar unless otherwise specified;

(h) "financial year" means in relation to a licensee under this Ordinance –

(i) the period not exceeding 53 weeks at the end of which the balance is struck,

(ii) if no such balance is struck, or if a period in excess of 53 weeks is used, then a calendar year;

(i) "Inspector" means the Inspector of Banks and Trust Companies appointed under section 17;

(j) "licence" means a licence granted under section 4(4);

(k) "licensed financial institution" means a company which has received a licence under this Ordinance;

(l) "licensee" means a company holding a licence under this Ordinance;

(m) "international bank" means any company that exclusively carries out banking business;

(n) "banking business" means banking business conducted in currencies other than New Utopian Dollars, except such business conducted with residents of New Utopia in currencies other than New Utopian Dollars by a financial institution which is properly licensed under this Ordinance;

(o) "trust" means the legal relationship created *inter vivos* or on death by a person, known as a settlor, where assets have been placed under the control of a person known as a trustee for the benefit of a person known as beneficiary or for a specified purpose or where a person declares that he holds assets as trustee for the benefit of a beneficiary or a specified purpose and -

(i) the assets constitute a separate trust fund and are not part of the trustee's own estate;

(ii) title to the trust assets stand in the name of the trustee or in the name of another person on behalf of the trustee; and

(iii) the trustee or another person on behalf of the trustee has the power and the duty, in respect of which he is accountable, to manage, employ or dispose of the assets in accordance with the terms of the trust and the special duties imposed on him by law;

(p) "trust business" means any business usually conducted by a trust corporation and any other business ancillary, analogous or related thereto dealing with a trust created by a settlor or grantor who is not a resident of The Principality of New Utopia other than a company which has been issued with a certificate by the Inspector certifying that such company is not engaged in any revenue generating activities in New Utopia.

PART II Licences

3. Requirement of licence

(1) No person shall carry on banking business within New Utopia, whether such business is carried on within or outside New Utopia, unless such person is a company registered or incorporated in New Utopia and has been granted a licence under this Ordinance for the purpose.

(2) No person, except a licensed financial institution that has been granted a Class "A" banking licence, shall carry on trust business from within New Utopia whether such business is carried on within or outside New Utopia, unless such person is a company

registered or incorporated in New Utopia and has been granted a licence under this Ordinance for the purpose.

4. Application for licence

(1) Any company desirous of commencing an banking business or trust business in or from within New Utopia may apply to the Board of Governors for a licence.

(2) Every application shall be in such manner and form, and shall be accompanied by such information, as the Board of Governors may prescribe.

(3) Every application shall also be accompanied by a receipt issued by the Accountant General for the payment of the prescribed fee for the processing of the application which shall have been paid before any application is lodged.

(4) If the Board of Governors is of the opinion that the granting of a licence, for the purpose for which the application has been made, is not against the public interest and that the applicant is a person qualified to carry on banking business or trust business, as the case may be, the Board of Governors may grant a licence subject to such terms and conditions as they may consider necessary.

(5) A decision of the Board of Governors to refuse to grant a licence shall be final and conclusive and shall not be called in question in any Court of law by way of writ or otherwise so long as the refusal was not determined on grounds that violate the terms of the Constitution.

(6) Where a licence has been granted under this Ordinance, a notice shall be published in the Gazette specifying the name of the licensee and the conditions, if any, subject to which the licence has been granted.

(7) Every licensee shall prominently display the licence granted under this Ordinance on the premises where the business is carried on.

5. Duration of licence and payment of fees

A licence issued under this Ordinance expires on the 31st December of the year in which it is issued and may be renewed no later than the end of the month of January in the next following year upon payment of the prescribed fee as detailed in The Companies, Banks and Trust Companies Fees Schedule 2000.

6. Exemptions

Any person who has been granted a licence under this Ordinance is exempted from being licensed under any other Ordinances for which a licence may be required for the pursuance of the same business.

7. Principal office and authorised agent

(1) No licence shall be granted to a company or allowed to be retained by a company unless;

(a) it has a registered office and authorised agent in New Utopia and where the licensee does not have its own staffed office in New Utopia its authorised agent is either another licensed financial institution holding a Class "A" banking licence or the New Utopia National Reserve Bank; and

(b) it has obtained prior approval of the Board of Governors to the appointment of an individual or company or other licensed financial institution as its authorised agent and notified the Board of Governors of such appointment; and

(c) it has notified the Board of Governors in advance of, and obtained his approval for, changes to be effected in relation to the address of its principal office or in respect of its authorised agent.

(2) The authorised agent of a licensee shall reside in New Utopia and in their capacity as representative of the licensee ensure compliance with any statutory requirements under this Ordinance and act as intermediary between the licensee and, as the case may be, the Board of Governors or the Inspector.

(3) The Board of Governors may in writing revoke at its discretion an approval given under subsections (1)(b) and (c).

8. Types of licences

(1) A licence granted under this Ordinance shall be in one of the following categories:

(a) a Class "A" banking licence that may be granted to an existing licensed bank currently holding a Class "A" banking licence or its equivalent issued elsewhere. The licensee may carry on banking business both within New Utopia and elsewhere;

(b) a Class "B" banking licence for the purpose of carrying on banking business subject to the restrictions on that business specified in section 9;

(c) a restricted Class "B" banking licence for the purpose of carrying on banking business subject to the restrictions on that business specified in section 9 and subject to the further restriction that the licensee shall not receive funds by way of trade or business from persons other than those listed in any undertaking accompanying the application for the licence;

(d) a Class "I" internet banking licence for the purposes of carrying on banking business subject to the restrictions on that business specified in section 9;

(e) a general trust licence, for the purpose of carrying on trust business as defined in section 2 of this Ordinance; and

(2) Any applicant for general trust licence may request the Board of Governors in writing to extend the licence, when granted, to include any other company which is a wholly owned subsidiary of the applicant by submitting, along with the application –

(a) the name of the subsidiary company,

(b) documentary proof sufficient to establish applicant's sole ownership of the subsidiary company, and

(c) description of the particular type of trust business being, or to be, carried on by the subsidiary company.

(3) The Board of Governors may, upon granting the general trust licence to the applicant, extend the licence to include any such subsidiary company as is referred to in subsection (2) subject to such terms and conditions as the Board of Governors may consider necessary.

9. Limitations on restricted banking

(1) Any holder of a Class "B" or restricted Class "B" banking licence shall not;

(a) carry on banking business with any person resident in New Utopia other than another licensee or a company which has been issued with a certificate by the Inspector certifying that such company is not engaged in any revenue generating activities in New Utopia;

(b) invest in any asset that represents a claim on any person resident in New Utopia except a claim resulting from -

(i) a transaction with another licensee, or

(ii) the purchase of bonds or other securities issued by the Government, a statutory corporation or a company in which the Government is the sole or majority beneficial owner, or

(c) without the written approval of the Board of Governors, carry on any business in New Utopia other than the business for which a Class "B" or restricted Class "B" banking licence has been granted.

(2) Any holder of a Class "I" internet banking licence shall not carry on any banking business other than electronically using the internet as the sole medium of communication with customers for the deposit, transfer and withdrawal of funds and/or other investments.

10. Capital requirements

(1) No Class "A" banking licence shall be granted to any company unless it has a fully paid up capital of not less than one million dollars or its equivalent in foreign currencies, or such greater sum as the Board of Governors may, by order, determine.

(2) No Class "B" banking licence shall be granted to any company unless it has a fully paid up capital of not less than five hundred thousand dollars or its equivalent in foreign currencies, or such greater sum as the Board of Governors may, by order, determine.

(3) No restricted Class "B" banking licence shall be granted to any company unless it has a fully paid up capital of not less than one hundred thousand dollars or its equivalent in foreign currencies, or such greater sum as the Board of Governors may, by order, determine.

(4) No Class "I" internet banking licence shall be granted to any company unless it has a fully paid up capital of not less than one hundred thousand dollars or its equivalent in foreign currencies, or such greater sum as the Board of Governors may, by order, determine.

(5) The Board of Governors may, on the recommendation of the Inspector, require a licensee to increase its fully paid up capital to such greater amount as they may determine having regard to the nature of the banking business or trust business being, or sought to be, undertaken.

(6) The Board of Governors may, on the recommendation of the Inspector, having regard to the nature of the banking business being, or sought to be, undertaken, require a licensee to place a sum of money as an interest bearing deposit with the New Utopia National Reserve Bank for such time as they may hold a banking licence, such deposit to

be not less than one quarter of the minimum paid up capital required by these Regulations, or such greater sum as the Board of Governors may determine.

11. Use of word "bank", etc.

(1) No person other than a licensee shall, except with the written approval of the Board of Governors or under this or another appropriate ordinance -

(a) use or continue to use the words "bank", "trust" or "trust company" or "trust corporation", "savings" or "savings and ban" or any of their derivatives, either in English or in any other language, in the name, description or title under which such person is carrying on business from within New Utopia, whether or not such business is carried on within or outside New Utopia;

(b) make or continue to make any representation in any bill, invoice, letter, letterhead, circular, paper, notice, advertisement or in any other manner that that person is carrying on banking business or trust business; or

(c) in any manner solicit or receive deposits from the public.

(2) No company shall, except with the written approval of the Board of Governors or under the authority of any other written law, be registered, or continue to be registered, by a name which contains the words bank", "trust" or "trust company" or "trust corporation", "savings" or "savings and loan" or any of their derivatives, either in English or in any other language, in the description or title under which such company is carrying on business from within New Utopia, whether or not such business is carried on within or outside New Utopia.

(3) Before giving their approval under subsection (1) or (2) the Board of Governors may require the production of such references, information and particulars as may be prescribed.

(4) The Board of Governors may withdraw any approval given under subsection (1) where they consider it to be in the public interest.

(5) The Board of Governors may refuse to grant a licence to a company or, if the company is already in possession of a licence, it may revoke the licence if, in its opinion, the company is carrying on or appears likely to carry on banking business or trust business, as the case may be, under a name that -

(a) is identical with, or resembles a name of any company, firm or business house, whether within or outside New Utopia;

(b) is calculated to suggest, falsely, the patronage of or connection with some person or authority, whether within or outside New Utopia; or

(c) is calculated to suggest, falsely, that the company -

(i) has special status in relation to, or derived from, the Government or Royalty,

(ii) has the official backing of or acts on behalf of the Government or Royalty or of any department, branch, agency or organ of the Government or Royalty, or any officer thereof, or

(iii) is recognised in New Utopia as a national or central bank or trust company.

(6) No person who has acquired knowledge in his capacity as director, manager, secretary, officer, employee or agent of a licensee or as Inspector or a person authorised under section 17(7) to assist him, shall disclose at any time to any person or governmental authority the identity, assets, liabilities transactions or other information in respect of a depositor or customer of such licensee except -

(a) with the written authorisation of the depositor; or

(b) for the purpose of performance of his duties within the scope of his employment or in conformity with the provisions of this Ordinance; or

(c) when required to make disclosure by any court of competent jurisdiction within New Utopia; or

(d) under the provisions of any law of New Utopia;

but nothing herein shall prevent a licensee from providing to a person, upon a legitimate business request, a general credit rating, a summary of which will be provided to the depositor or customer upon request.

(7) Any person who contravenes the provisions of subsection (1) or (2) or (6) of this section commits an offence and shall be liable on conviction to a fine not exceeding fifty thousand dollars or imprisonment for a term not exceeding five years or to both such fine and imprisonment.

12. Surrender of licence

(1) A licensee that has ceased to carry on the business in respect of which the licence was granted may apply to the Board of Governors to surrender its licence, if -

(a) it has ceased to carry on the business, and produces evidence that it has repaid all deposits and has transferred all trust assets held or administered by it; or

(b) it is being wound up voluntarily and produces evidence that it is solvent and able forthwith to repay all its other deposits held by it and all its other creditors and has transferred all trust assets held or administered by it, and the Board of Governors may thereupon approve the surrender.

(2) In the case of an application under paragraph (b) of subsection (1), the Attorney General may apply to the Court for an order that the licensee be wound up by the Court; and where the Attorney General makes an application for the winding up of a licensee under this subsection, the Court shall consider such application as if it were made under the circumstances specified in part IX, and by a party specified in part IX, of The Companies Ordinance 2000.

PART III Transferability of Shares and Beneficial Interests

13. Shares not to be issued or transferred without approval

(1) No shares in any international bank or trust company shall be issued and no issued shares, or beneficial interests in shares of any such bank or company shall be transferred or disposed of in any manner without the prior written approval of the Board of Governors.

(2) Subsection (1) shall not apply to a licensee which is a licensed financial institution.

PART IV Administration

14. Accounts.

(1) Every licensee shall have its accounts audited by an auditor annually or at such other periods as the Board of Governors or the Inspector may require.

(2) The licensee shall forward the audited accounts to the Inspector within six months from the end of the financial year of the licensee unless prior written approval for an extension has been granted by the Inspector.

(3) Where a licensee changes its auditor, the licensee shall, when required by the Inspector, authorise the former auditor to disclose the circumstances that gave rise to the change, and when so authorised, the auditor shall disclose such circumstances.

15. Certain approvals required

A licensee shall not change its name or operate outside New Utopia a subsidiary, branch, agency or representative office without the prior written approval of the Inspector.

16. Number and approval of directors

(1) A licensee shall at no time have less than two directors.

(2) A licensee, except a licensed financial institution, shall, before the appointment of a director or other senior officer, apply to the Inspector for his written approval of such appointment unless the licensee is exempted from such a requirement by the Inspector.

(3) An exemption granted under subsection (2) -

(a) lapses if the director or senior officer becomes bankrupt, makes an arrangement or composition with his creditors or is convicted of an offence involving dishonesty; or

(b) may be revoked by the Inspector in writing with the prior written approval of the Board of Governors.

17. Inspector of Banks and Trust Companies and his functions

(1) There shall be an Inspector of Banks and Trust Companies appointed by the Board of Governors.

(2) The Inspector shall be responsible to the Board of Governors for the regulation and supervision of licensees in general and in particular with regard to -

(a) the maintenance of a general review of banking practice in New Utopia;

(b) where he thinks fit or when so required by the Board of Governors, the examination of regular returns or special returns and particulars that may be called from time to time from any licensee for the purpose of satisfying himself that the

provisions of this Ordinance are being complied with and that the financial position of the business of the licensee is sound and reporting to the Board of Governors the results of such examination;

(c) the provision of assistance in the investigation of any offences under the laws governing banking and other commercial activities committed by the licensee, his director agent or officers;

(d) the examination of accounts and audited annual accounts forwarded to him under section 14 and reporting his findings to the Board of Governors; and

(e) the evaluation and processing of applications for licences and to make recommendations to the Board of Governors with respect to such applications.

(3) For the purpose of performing his functions and duties under subsection (2) the Inspector shall be entitled -

(a) to have access to all such books, records, documents, cash and securities and all other financial instruments of any licensee;

(b) to request such information, matter or thing from any person who, he has reasonable grounds to believe, is carrying on banking business or trust business in contravention of any part of this Ordinance; and

(c) to call upon the authorised agent, or manager, of the licensee for such information or explanation, as the Inspector may reasonably require for the purpose of enabling him to perform his functions under this Ordinance.

(4) Where the Inspector is satisfied that there is probable cause for suspicion of illegal activity carried on by any licensee and for any reason is unable to obtain the information required from such licensee the Inspector may apply to the Court for an order of the Court directing such licensee to provide information to the Inspector as to –

(a) the name and title of an account of a depositor or settlor;

(b) the name and title of a trust; or

(c) any other matter he may require in the furtherance of his investigations.

(5) Where the Court is satisfied that the Inspector has probable cause to suspect illegal activity carried on by a licensee and that the Inspector is unable to obtain such information as is referred to in subsection (4), the Court shall, on application made by the Inspector, issue an order directing the licensee to provide to the Inspector such information.

(6) Any licensee who contravenes the order of the Court commits an offence under this Ordinance.

(7) The Board of Governors may in writing authorise any person by name or office to assist the Inspector in the performance of his functions under this Ordinance.

(8) If the Court is satisfied by information on oath given by the Inspector or by a person authorised by the Board of Governors to assist the Inspector that there is reasonable ground for suspecting that an offence against this Ordinance has been or is being committed by a licensee the Court shall, on application made by the Inspector, issue an order authorising him to take such action as the Court may consider necessary in the interest of the depositors or of the beneficiaries of any trust or other creditors of the licensee and to preserve any assets of the licensee.

18. Specific powers of Board of Governors

(1) Where the Board of Governors is satisfied that a licensee -

(a) is unable or appears likely to become unable to meet its obligations as they fall due;

(b) is carrying on business in a manner detrimental to the public interest, the interests of its depositors or of the beneficiaries of any trust, or to the interests of other creditors;

(c) has contravened any provision of this Ordinance; or

(d) has failed to comply with a condition of its licence,

they may take any of the actions specified in subsection (2).

(2) The actions that the Board of Governors may take in pursuance of subsection (1) are:

(a) revocation of the licence;

(b) imposition of new or additional conditions upon the licensee;

(c) substitution of any director or officer of the licensee;

(d) appointment, at the expense of the licensee, of a person to advise the licensee on the proper conduct of its affairs and to report to the Inspector at such times as the Board shall designate;

(e) appointment, at the expense of the licensee, of a person to assume control of the licensee's affairs; and such person shall have all the powers of a person appointed as a receiver or manager of a business under the Bankruptcy Act; or

(f) requiring the licensee to take such other action as the Board of Governors may consider necessary.

(3) Before revocation of a licence pursuant to subsections (1) and (2) of this section, the Board of Governors shall give the opportunity to the holder of such licence to show cause either in person or by representative against the revocation of such licence.

(4) A person appointed under paragraph (d) or (e) of subsection (2) or whose appointment has been extended under subsection (5)(b) shall from time to time at his discretion and in any case within three months of the date of his appointment or of the extension of his appointment, as the case may be, prepare and furnish a report to the Board of Governors of the affairs of the licensee and make recommendations thereon.

(5) On receipt of a report under subsection (4) the Board of Governors may -

(a) revoke the appointment of the person appointed under paragraph (d) or (e) of subsection (2);

(b) extend the period of appointment of the person appointed under paragraph (d) or (e) of subsection (2);

(c) subject to such conditions as the Board of Governors may impose, allow the licensee to reorganise its affairs in a manner as the Board of Governors may approve; or

(d) revoke the licence and instruct the Attorney General to apply to the court for an order that the licensee be forthwith wound up by the court.

(6) Where the Attorney General makes an application to the Court for the winding up of a licensee under subsection (5), the Court shall consider such application as if it were made under the circumstances specified in section 116, and by a party specified in section 118, of the Companies Act.

(7) Notwithstanding any other provision in this Ordinance, the Board of Governors may revoke a licence if the licensee -

(a) has ceased to carry on banking business or trust business;

(b) has gone into liquidation or is wound up or otherwise dissolved; or

(c) has made any arrangement or composition with its creditors.

(8) Whenever the Board of Governors revokes a licence under paragraph (a) of subsection (2), or paragraph (d) of subsection (5) or under subsection (7), they shall cause notice of such revocation to be published in the Gazette and may also cause such notice to be published, whether within New Utopia or elsewhere, in such newspaper or other publication as they may consider necessary in the circumstances.

(9) Any decision of the Board of Governors under this section shall be final and conclusive and shall not be called in question in any court of law by way of writ or otherwise.

19. Attorney General may apply to Court

Where a licensee or a person who has at any time been a licensee is being wound up voluntarily, the Attorney General may, when being requested by the Inspector, apply to the New Utopian Court for leave to intervene on behalf of any interested party if he considers that the winding up is not being conducted in the best interests of its depositors, the beneficiaries of any trust, or other creditors and the Court shall make such order as it shall consider appropriate.

20. Power of search

(1) If the Court is satisfied by information on oath given by the Inspector or a person authorised by the Board of Governors to assist the Inspector -

(a) that there is probable cause to suspect that an offence against this Ordinance has been or is being committed and that evidence of the commission of the offence is to be found at any premises specified in the information or in any vehicle, vessel or aircraft so specified; or

(b) that any books, records, vouchers, documents cash or securities which ought to have been produced under section 17(3) and have not been produced are to be found at any premises specified in the information or in any vehicle, vessel or aircraft so specified, the Court may grant a search warrant authorising the Inspector, together with any other person named in the warrant, to enter the premises specified in the information or, as the case may be, any premises upon which the vehicle, vessel or aircraft so specified may be, at any time within one month from the date of the warrant, and to search the premises or the vehicle, vessel or aircraft.

(2) The Inspector or any other person authorised by a warrant to search any premises or any vehicle, vessel or aircraft may search every person who is found in or whom he has reasonable grounds to believe to have recently left those premises, or that vehicle, vessel or aircraft, if he has reasonable grounds to suspect that such person is or has been involved in the commission of an offence against this Ordinance, and may seize any books, records, vouchers, documents, cash or securities found in the premises or in the vehicle, vessel or aircraft which he has reasonable grounds for believing ought to have been produced under section 17(3):

Provided that no female shall, in pursuance of any warrant issued under this section, be searched except by another female.

(3) Where by virtue of this section a person has any power to enter any premises, or a vehicle, vessel or aircraft, he may use such force as is reasonably necessary for the purpose of exercising that power.

Provided that all due and reasonable care shall be taken with regard to any premises, vehicle, vessel or aircraft or property contained therein during any search under this section.

(4) Any person who -

(a) is obligated under the provisions of this Ordinance to comply with a request made of him by the Inspector or by any other person acting under this Ordinance fails to comply with such a request;

(b) assaults or obstructs the Inspector or any other person in the performance of their functions under this Ordinance;

(c) uses any language to the Inspector or any other person in the performance of their functions under this Ordinance such as may be deemed as indecent, profane or threatening by that Inspector or other person; and

(d) by the offer of any gratuity, bribe or any other inducement prevents or attempts to prevent the Inspector or any other person from performing their functions under this Ordinance,

is guilty of an offence and shall be liable on summary conviction to a fine not exceeding two thousand New Utopian dollars or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

PART V Miscellaneous

21. Power of Inspector to require insurance

Every holder of a licence under this Ordinance shall effect a policy of insurance with a reputable insurance company against -

(a) the dishonesty of employees of the licensee; and

(b) loss of documents;

in such amount and of such a nature as the Inspector may determine to be fit and proper, having due regard to the nature and type of business carried on by the licensee, and in the event that the insurance is withdrawn, cancelled or not renewed, the licensee shall immediately notify the Inspector and shall cease to carry on its business until the insurance has been reinstated or replaced.

22. Preservation of secrecy

(1) Except for the purpose of the performance or exercise of his duties or functions under this Ordinance or when lawfully required to do so by any New Utopian court or under the provisions of any other New Utopian law, the Inspector or any other person authorised under section 17(7) to assist him shall not disclose any information relating to any application under the provisions of this Ordinance, or to the affairs of a licensee or of a company managed by a licensee or of any customer of a licensee which he has acquired in the performance or exercise of such duties or functions under this Ordinance.

(2) Subsection (1) shall not apply to the disclosure by the Inspector to a banking supervisory authority or any other like regulatory authority of information about the licensee.

23. False or misleading information

A licensee or any director or officer of a licensee who knowingly or wilfully supplies false or misleading information to the Board of Governors or the Inspector or any other person authorised under section 17(7) to assist the Inspector is guilty of an offence and shall be liable on summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

24. General Penalty

Any person who contravenes any provision, of this Ordinance for which no penalty is specifically provided, or of regulations made under this Ordinance, is guilty of an offence and shall be liable on summary conviction to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

25. Liabilities of directors, managers, officers and partners

(1) Where an offence under this Ordinance has been committed by a body of persons which is -

(a) a body corporate, society or other body of persons, every person who at the time of the commission of the offence was a director, manager, secretary or other officer of the body corporate, society or body of persons as well as that body corporate, society or other body of persons commits the offence;

(b) a partnership or firm, every partner of the partnership or firm as well as that partnership or firm commits the offence and shall be liable to be proceeded against and punished accordingly.

(2) No person referred to in subsection (1) shall be found guilty of an offence under that subsection where he proves that -

(a) the act constituting the offence took place without his knowledge or consent, and

(b) he exercised all due diligence to prevent the commission of the offence.

26. Due Diligence

Every holder of a licence under this Ordinance shall exercise all due diligence in the opening of and maintenance of any and all accounts held by customers and or trusts managed whether such accounts or trusts are held or maintained or managed in or outside New Utopia and shall report to the Inspector details of any accounts or trusts where there is reasonable suspicion that funds deposited in the account or held in any trust are either of criminal origin or represent part of a money laundering scheme.

27. Money Laundering

Money Laundering shall be defined as the passing of the financial proceeds of either drug, terrorist or illegal arms related crimes through the New Utopia banking system.

28. Immunity

Notwithstanding the provisions of any other law, no suit or prosecution shall lie against any officer, employee, servant or agent of the Government for any act which in good faith is done or is purported to be done by him under this Ordinance.

29. Regulations

(1) The Board of Governors may make regulations generally for the purpose of carrying out or giving effect to the principals and provisions of this Ordinance in the general form as laid down in The Banks and Trust Companies Regulations 2000.

(2) In particular and without prejudice to the generality of powers conferred by subsection (1), the Board of Governors may make regulations in respect of -

(a) all matters stated or required by this Ordinance to be prescribed; and

(b) the control of the form of advertising by licensees.

30. Guidelines

(1) The Inspector may, from time to time, issue, by notice in the Gazette, directions in relation to such matters as he may think fit and appropriate; and failure by any licensee to comply with such directions shall be taken into consideration when any action is proposed to be taken under section 18.

(2) Applications for licences under this Ordinance shall be in the general form as laid down in The Banks and Trust Companies Regulations 2000.

31. Saving

Nothing in this Ordinance shall apply to the New Utopia National Reserve Bank.